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REALITIES OF THE SOUTH AFRICAN WAR.

BY THE RIGHT HONORABLE THE MARQUIS OF LORNE.

It is too much the habit of men who have more education than experience, more culture than perception, to desire to mould the policy of the future by avoidance of all causes of trouble in the past. They do not sufficiently consider the change of circumstances that may sanction persistence in the pursuit of the old objects to be attained now by altered methods. The Anglo-Saxon has been compelled to pursue a policy of influence wherever he has gone, and this has generally become a policy of domination. But it is not in virtue of being Anglo-Saxon; it is in virtue of the free form of government that his race has been first to practice. It is not a dominance of race, but a dominance of policy and institutions. Each country in which this constitutional method of government has been instituted has absorbed within itself men of all races. The original Anglo-Saxon stock has been recruited by the best Northern races, and by others who love the Union Jack, or its progeny, the Stars and Stripes, because they find under these so-called Anglo-Saxon flags the liberty unknown elsewhere.

That this method of government, for all and by all of worth, must expand and have a policy of influence and dominance is shown in America in the Monroe Doctrine, which, originally a

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policy of influence, becomes more and more a policy of dominance. Australia is jealous of any influence but her own, for she must aim at rule in the Southern seas. It is the law of being of constitutional government where commerce has freest play, that those who are chosen by the people to represent them shall see that commerce extended and protected, while their own ports are open to the trade of the world. In South Africa the same end must necessarily be achieved. Why? Because it is experience as against mere education, knowledge of man's desires as against mere culture, that succeeds. It is practical civilization against the wisdom of the closet. Wherever you can find a people armed with this, that people is sure to expand, and others, if they attempt to occupy the same field, will give way before the force of its institutions, more than before the strength of its arm of flesh. In South Africa the Boer is much as an Englishman was over two centuries ago, after two bottles of heavy beer. His strength was greater than that of the great native tribes he dispossessed. But he is attempting now to withstand institutions of modern make and a people who are freer than he is. We shall see who will win.

The nations who have no Anglo-Saxon stock or institutions, and who aspire, without these, to form colonies and control them from home, as the Englishman of long ago tried to do, are all against us. They dislike the temper of our travelling public; they abominate what they call the insolence of our press, and they are intensely envious of our success. It is natural that a socialistic feeling should prevail even at their courts, and that they should feel that if we were out of the way they would have a better chance. But the vast majority of men who have tasted the good of free institutions are with us. To say nothing of Americans, Canadians, of both English and French stock, Australasians and most of the Cape Colonists are united in sentiment. Parliamentary government, with the alliance and good offices, or only the "*bon-accord*" of the motherland, full popular freedom, full fiscal liberty, the power to make and unmake their own governments, and yet have the imperial fleet and might at their back, these are guarantees for good which they see have been possessed by few in the world's history. It is, therefore, somewhat surprising to find some men of more culture than perception writing as though they could, by abusing Great Britain, set back the tide of time and breathe into the dying giant of Privilege and Isolation the life

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which modern days have taken forever. I have known such men of good intention in Great Britain. One was a Congregationalist minister. He was full of righteous wrath against those who condemned the Boers. He went to Johannesburg and returned with ten-fold more wrath against those he had befriended. He had found them out. It is a pity that personal inspection is so often necessary for many men before they find out their idols.

There is a volley fired in the January number of the NORTH AMERICAN REVIEW from the trenches of these gentlemen. They have run to a historical "kopje," where, from the entrenchments of superior culture, they have fired on the advance of the Anglo-Saxon. But, unlike the Boers, whose cause they champion, they fight also in the open, for they give their names. It would take too much time to deliver a purely frontal attack on the position they man so heavily. "Can't you get round?" said an American soldier critic to a British officer, who, as usual, wanted to march straight to death. Let us see if there be not some present conditions which make a great deal of the historical retrospect indulged in by these gentlemen an unnecessary labor on their part.

When writing or judging of the policy to be pursued in a new country, flirtations with the muse of history are entangling to no ordinary degree. What may have been wisely or foolishly done ten or even five years ago, will give little guidance under the rapidly changing conditions of the present. New facts must alter even old treaties. It is probably to this fact that the Boer Government will revert when they acknowledge that the solemn promises given by them, to the effect that any person coming to their State would be treated as one of themselves, were cancelled. They had declared that there should be no difference in political status. It was on these promises being made that they were granted the first convention, providing for their independence in all but the power to conclude foreign treaties. Their State was the creature, the offspring, of those promises, solemnly given before witnesses. There would have been no question of leaving them to their own devices but for these assurances. This is a fact, a cardinal fact, conveniently ignored by the volley-firers in the REVIEW of January. It is strange that even education without experience can make men miss such historical and vital facts.

But we have admitted that altered circumstances may rapidly change the human chance of keeping promises. So we may, at all

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events, cite present experience as of more value than education in the lore of the past. And what does the present show? The altered conditions, as compared with that which went before, due to the "rush for gold." This has brought a great change in the balance of power in the population. The descendants of Dutch colonists were no longer in the majority in the mining district. On this change the Boers found their plea of necessity in not adhering to their bond and covenant. On this fact, also, the Uitlanders and the Anglo-Saxon constitutionalists found their claim for fair treatment and equal rights. It is no answer to this to say that some Scottish and Cornish miners did not care to possess the franchise, and that all they wanted was to make money to go back to Great Britain. It is not for passing sojourners that the legislation of a country must be made. It must be made for all who care to stay and enjoy freedom and their rights. The Boers say, "Oh, that destroys our domination, which we went into the wilderness to secure. Our dear independence is endangered." The Anglo-Saxon replies, "It is no longer a desert; it can be made fruitful by irrigation and an honest government. It is a land rich in minerals. You must keep your promises: share and share alike—equal rights." "Equal rights means your domination," shrieks the Boer. "Equal rights means an equal chance for each citizen," answers the Uitlander; "and you, Mr. Boer, will get your individual share, but you can have no racial or collective or State superiority confined to one clique or class in the State."

British domination is not race domination. It is the influence and domination of free government, which happens to be adopted largely by the British or their descendants. Is not this the ideal all our English-speaking Governments have in view? What is there in the present case to warp any educated man's mind the other way?

Is it gold? "Syndicates, and trusts, and Jews," sneer the writers who are above thinking of the value of gold. "All your language stinks of the Stock Exchange!" cries another virtuous politician, who knows that politicians are always superior to bankers or brokers. Is not this a confusion of educated thought? Gold is only a measure of value, and any value brings men and has brought men to desire it. This has been so since Cain lost the fruits of Eden, and will be so until all fruits and values are consumed in the last fires. Good soil of old was as gold, and men

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fought for the good soil and its fruits. Then flocks and herds were as gold, and men fought for them and went and settled where they could get them best; as did the Boers, the other day, expelling the Zulus and Kafirs and Hottentots and taking their cattle. And these pre-historic Boers would like the world still to be satisfied with cattle as a measure of value, and don't like the new medium, the gold, which they don't mind using to preserve their cattle ranches and in buying guns to shoot all modern-minded people. But what they do not see is that it is as much one of God's laws that the strong and energetic will go where there is most to be got, as it was that they themselves moved first to Africa and then on into the interior. Where there is value, whether in diamonds, or in gold, or cattle, or anything else highly prized among men, there will men go, including even the Jews, about whom the Boers are so fond of reading and with whom they care so little to make personal acquaintance! And seeing that this movement of mankind has just as divine an origin as has the Boer himself, he must adapt himself sooner or later to the circumstance. It is the abuse of gold, not its use, which is evil. It does not do to say that the Boer is a peculiar person or his people a peculiar people, able to indulge their selfishness as they choose under the name of independence. Independence is a thing of value only when it brings blessings to all and sundry. Some of your correspondents would become enthusiastic for a cannibal tribe's "independence," especially if they often consumed a successful Anglo-Saxon of good taste. Man was not made to set up for himself in little exclusive states, and bar out the ocean of humanity. It is too late in the day for that. The Mormons wanted to play the same game, and found that even Utah was too much on the high road of advance. In Africa, the Transvaal and the Orange Free State are on the high road between the Cape—the New York of Africa—and the lakes and Egypt, which may be likened to the California of Africa. Being on the high road, they must, some time or other, if not now, fall into line with the general customs of the world, and be amenable to public opinion and to influences which not all the interested praise of their foreign friends can shut out.

No talk of Boer piety, bravery or weakness will avail in the long run. The fanatics of the Inquisition were brave and pious enough, but they found progress too much for them. Boers, like Inquisitors, would shut out knowledge by refusing to allow the

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teaching of English beyond elementary school standards. They have laid on iniquitous taxes, while they will not touch with their little finger any State financial burden. They have shown an insolent contempt when any redress of grievances was demanded. They forbade any one but themselves to carry arms. They made their judges subordinate to their politicians. The grievances were severe enough to make any free people rise in revolt long before exasperation produced the ill-advised Jameson Raid. It was their purpose to grow rich and powerful at the expense of free government. Religious intolerance and civil intolerance bred of ignorance made them believe that they could drive the Uitlander away from their own confines, which were to be extended to the sea, that their land should be a power among the nations.

This was their ambition before the Raid; it is their ambition now—one Afrikander nation, under the backward rule which sees no good in anything but serfdom for the blacks, inferiority for the British and other Uitlanders, subordination of justice to the caprice of the President and his council, a maimed public intelligence and general backwardness in all things, except in making the crafty and tyrannical the lords of the citizens coming from more progressive countries.

Can this policy be expected to succeed? Ought it to prosper or to awaken any sympathy?

Were it English or British power alone on which advance depends, it is doubtful if success could attend it, but the forms of free government become loved by those descended from other nations. The United States and England are full of Germans who love to live under this free form of government, and whose children, in a generation or two, become incorporated with the nation practising this liberty. At the Cape, were the people of English or of Dutch descent to like another form, such as that of the Boers, it would be impossible to prevent them from casting aside the English flag. But with the English flag they know they have independence, and a powerful force from the motherland of free government at their back in case of trouble. This gives them, as it gives Australians and Canadians, an advantage which they can realize. It is only the small minority in isolated parts and the most ignorant who ever wish to disturb the liberty enjoyed with the safety of union with a power sympathetic to them and willing to shed its blood in their defence. Is it selfish

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only on England's part to act as fighting parent in defence of the offspring, not always of her loins, but of her laws? If it be selfishness, it is selfishness of a type unknown before in the world, and the cause of good to others than herself. It gives the open door of commerce to all people. It gives to those who pride themselves on political connection with her a liberty, not only of home laws, but a liberty to act without her in treaties of commerce. A voluntary alliance is all she reaps from the bond. She thinks this enough, believing it will continue. But it is a selfishness based on self-sacrifice in war for those who are not pledged to war for her. She has defended by her fleets their infant liberties. Selfishness is a foolish word for the conduct of any of the members of a great alliance, strengthening every decade in the invigorating air of a mutually protected freedom. At all events, such a selfishness is one that any people must fight for, and if they did not they would be worthy only of the contempt of mankind. We who are the sowers of freedom have a right to reap the harvest, and we prefer to have the envy and malice rather than the contempt of those who have not ploughed the straight furrows we have made.

LORNE.

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THE MERITS OF THE TRANSVAAL DISPUTE.

BY CAPTAIN A. T. MAHAN, U. S. N.

In contemporary disputes, passionate and partial assertion rarely fails to play as conspicuous a part as truth; with the result that there accumulates round the question at issue, and round the merits of the respective parties to it, a cloud of imperfect or erroneous statements, which not only confuse, but obscure. When such is the case, bystanders, who wish to understand, must be at the pains, first, to obtain a sufficient mastery of the various incidents and pleas which constitute the case on either side, and, second, to reject by elimination such of these attendant circumstances as are irrelevant or superfluous. The residuum of decisive factors, thus obtained, will commonly be found not too complicated or too doubtful to admit of a correct appreciation. The yield of the process will usually be twofold, viz., the facts, and the principle, upon both of which just judgment depends.

The dispute between Great Britain and the Transvaal, from which war has resulted, forms no exception to the general experience. On the contrary, passion and feeling, with their usual concomitant of hasty and vehement prejudgment, enter largely; while the facts of the case are numerous, and sufficiently complicated to require a very real mental effort to catalogue, comprehend and appreciate them in their relative importance. I assume, however, that they are in their entirety sufficiently familiar to all readers of the North American, through the numerous articles of the last three issues. It is fair, therefore, to presuppose some acquaintance with the detailed occurrences, extending over the past fifty or sixty years, which have resulted in the war of to-day. As a first elimination, it may be affirmed with probable exactness that the events and disputes precedent to the Pretoria Convention, in 1881, may now be dismissed from consideration. They

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possess, indeed, historical interest, useful to an understanding of conditions, but are no longer pertinent to the discussion of right. That Convention, with its successor, the London Convention of 1884, being acts in which both parties consented, regularized and legalized their political relations. Whatever the latter may previously have been, is now immaterial; the two conventions settled them then, and, conditional upon due observance on either side, remained the standard until the advent of war, which dissolves all conventions between belligerents, except such as pertain to the state of war itself. Our purpose here being to investigate the respective right and wrong, moral and political, in the conduct of both parties, which resulted in the quarrel, the outbreak of hostilities, in October, 1899, marks the termination, as the Convention of Pretoria, in 1881, marks the beginning, of the period under examination.

To make war is a moral action, to be judged by moral standards. The statement is applicable, not merely to the general question of waging war, but to all acts which lead up to war; as applicable to defensive war as to offensive. It is as wicked to maintain wrong by force as it is good to enforce right by arms, when it cannot be otherwise insured.

In political, as in personal, questions of moral conduct, I apprehend that judgment falls under three principal heads: Justice, Expediency or Policy, Duty. They answer to the questions: Is this within my right? Is it wise to enforce it? Is it my duty to do so? As St. Paul says, a thing may be lawful, but not expedient; the lawfulness and the expediency alike are elements of moral decision. Again, a man may without wrong waive a purely personal right, but when the rights of others are involved by the same concession, the question of duty to those affected enters; as, for instance, a father's action as affecting his children. The contemplated act may be lawful, it may be expedient at the moment, yet duty may forbid. By universal consent, Duty, when it clearly enters into a case, is paramount. It is the first in obligation, though not necessarily the first in order, of moral considerations.

War exists in South Africa because Great Britain has determinedly followed a certain course of action, which falls under two principal divisions: insistence, first, that a large alien population in the Transvaal must be relieved from grievous political and

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social wrongs under which it is laboring; and, second, that she has, in dealing with the Transvaal in this matter, a particular right and duty—as distinguished from those general rights which all nations possess as members of the international community. This particular right is called suzerainty, a term admittedly vague at the present day; that is, the word itself does not, in default of particular definitions, express the extent of the rights of the possessor—of the suzerain. It is inherited from the feudal system, where the obligations of tenure under a suzerain were of different kinds and degrees.

In the case of the Transvaal and Great Britain, the political relationship—*independent of the word itself*—is indicated by the character of the Conventions of Pretoria and of London. In both, the document is in the nature of a grant from a superior to a dependent.* The former and earlier consists of a "Preamble" and "Articles." The "preamble" expressly states, "on behalf of Her Majesty, that, . . . complete self-government, subject to the suzerainty of Her Majesty . . . will be accorded to the inhabitants of the Transvaal, upon the following terms and conditions;" these terms, etc., being expressed in the "articles"—thirty three in number. In the Convention of 1884, an introductory clause—not styled "preamble" in the document itself—reads: "Her Majesty has been pleased to take the said representations (of the Government of the Transvaal) into consideration, and has been pleased to direct, and it is hereby declared, that the following *articles* of a new Convention shall, when ratified by the Volksraad, be substituted for the *articles embodied* in the Convention of August 3, 1881."† In both cases there is a grant from one in authority over the other, the latter accepting; and in both cases terms—articles—are affixed to that grant of "complete self-government," which is the substance of each. It has been contended by the Transvaal statesmen that the omission, in the second convention, of the words, "subject to the suzerainty of Her Majesty," which were in the preamble of the first, abolished the suzerainty in fact. The sufficient reply to that is that the same construction abolishes the "complete self-government" granted; for the one

* "When the Transvaal deputation visited the country in 1883, they asked 'that the relation of a dependency, *publici juris*, in which our country now stands to the British Crown, may be replaced by that of two contracting Powers' (C. 3947, p. 5), and they submitted a draft treaty to give effect to their views. This draft treaty Lord Derby entirely rejected, observing that it was 'neither in form nor in substance such as Her Majesty's Government could adopt.'"—Parliamentary Papers, C. 9507, p. 34.

† My italics.

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phrase and the other occur only in the first Convention, in the preamble. To the latter the second makes no allusion, but it is explicit as to the substitution of one set of articles for the other.

Sir Alfred Milner justly observed,* "Whether the relationship created by the Conventions is properly described as suzerainty is not, in my opinion, of much importance. It is a question of etymological rather than of political interest." Still, the tenacity with which the rulers of the Transvaal clung to the renunciation of the word has given it substantial significance; for in the end, three months after Milner wrote the above sentences, they offered to concede nearly, if not quite, all that he had suggested for the benefit of the Uitlanders, upon two or three conditions, chief among which was that "a precedent shall not be formed by the present intervention for similar action in future," and "that Her Majesty's Government will not insist further upon the assertion of suzerainty, the controversy on this subject being tacitly allowed to drop."† This the British Government refused,‡ and the Transvaal withdrew its offer. It was too evident that the relinquishment of the word would be understood to mean a concession of non-dependence, and of non-responsibility to Great Britain, in all matters not expressly reserved. For the substance of suzerainty is the existence of dependence in the vassal, except so far as independence is conceded. "Complete self-government" is not independence. The explicit reservation by Great Britain of the right to nullify any treaty, or engagement, entered into by the Transvaal with a foreign country,‖ necessarily reserved with it responsibility for its relations with the outside world; for when treaties or engagements cannot be independently concluded, although dealings may be had and business carried on, it is impossible to guarantee satisfactory relations of any kind. The whole includes the parts; final ratification conditions and embraces all the antecedents.

The troubles which led up to this war sufficiently illustrate this. Among the Uitlanders in whose behalf Great Britain interposed were the subjects of many foreign States. In particular difficulties connected with these, the Transvaal agents might, by concession or otherwise, reach a satisfactory arrangement with the Powers concerned, which might obviate the necessity of an

* Parliamentary Papers, C. 9507, p 6.
† Parliamentary Papers, C. 9521, p. 44.
‡ *Ibid*, pp. 45, 50; C. 9507, p. 33.
‖ Art. 4, Convention of 1884, Parliamentary Papers, C. 3914.

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engagement; but if it became necessary to enter into engagements, the reserved right of Great Britain entailed not only power, but responsibility, for the two are inseparable. Upon responsibility follows obligation—to procure a remedy for conditions provocative of just reclamation by foreign States; and this obligation outweighs, in moral force, that political expediency—or interest—which, by common consent, justifies interference in the affairs of a neighboring State, when these threaten your own peace or welfare, as, for instance, when we lately interfered with Spain in Cuba, a course in which our obligation was not legal, but moral. Our own keen national sense on this subject is evidenced by our Monroe Doctrine. In the Americas we object to foreign interference carried beyond certain limits, because the matter comes too near home for our peace and interest. Well, Great Britain, which rules by far the greater part of South Africa, and is predominant there as we are here, objects to foreign interference in the Transvaal, her statesmen having even used the Monroe Doctrine as illustrative of her policy in that respect. Consequently, when she established the Transvaal as a self-governing but dependent State, she, in addition to the right resting upon general interest in a neighbor, reserved a check upon its relations with foreign States.

The *right* to interpose as she has done—the first, in order, of the moral considerations—rests upon two grounds: First, of general policy, in the necessity of remedying conditions in a neighboring State, which threaten one's own tranquillity or welfare—as when we intervened in Cuba and in the Venezuela business; and, second, upon the specific right of suzerainty, retained in the Acts which constituted the Transvaal into the South African Republic. For those not satisfied, as I am, with the technical verbal argument in proof of this retention (given above), the purpose and understanding of the British Government in the transaction were affirmed in Parliament by its negotiator, Lord Derby, on March 17, 1884, the Convention having been signed February 27, less than three weeks before. "It has been said that the object of the Convention had been to abolish the suzerainty of the British Crown. The word 'suzerainty' is a very vague word, and I do not think it is capable of any precise legal definition. Whatever we may understand by it, I think it is not very easy to define. But I apprehend, whether you call it a pro-

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tectorate, or a suzerainty, or the recognition of England as a paramount Power, the fact is that a certain controlling power is retained when the State which exercises this suzerainty has a right to veto any negotiations into which the *dependent** State may enter with foreign Powers. Whatever suzerainty meant in the Convention of Pretoria, the condition of things which it implies still remains; although the word is not actually employed, we have kept the substance. We have abstained from using the word, because it was not capable of legal definition, and because it seemed to be a word which was likely to lead to misconception and misunderstanding."† It is clear that Derby, overlooking the retention of the preamble of 1881, understood himself to have abandoned, not the thing, but the word, because the latter was indeterminate; owing to the historical applications which constitute its definition being so varied.

Passing with these remarks from the question of Great Britain's rights, I take up next that of her duty, under the conditions existing prior to the war; leaving to the end a brief summary of the reasons which, in my opinion, constitute the expediency, or policy, of her action in the premises.

It is a commonplace, that responsibility is the complement of power. It is also the foundation of duty. A person responsible has a duty to do, when occasion arises. In refusing the Transvaal that independence in foreign relations which would enable other States to hold it directly accountable, Great Britain retained, in so far, responsibility that foreigners should be so treated as to give no just ground for reclamations. In the case of wrongdoing by a dependent, one's duty, or responsibility, is not limited to correction upon complaint of grievance. Even for single, unforeseen, acts of wrong, reparation may be exacted; but for a continuous act, or condition, clearly known, the duty of remedial measures is such that the failure to institute them is just cause for complaint. A foreign State, in its care for its citizens abroad, does not, for redress, look below the supreme power of the State where they are domiciled. From the latter it demands justice, nor does it concern itself with the methods by which justice is reached; those are part of the internal affairs of the other country. The home government of the injured man sees only the injury and the re-

* My italic.
† Parl. Papers, C. 9507, p. 34.

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sponsible power; that is, the supreme Government. When Italian citizens were lynched in New Orleans some years ago, the Italian Government had before it two facts: violence done to its citizens, and the government of the country where the violence occurred. The laws and courts of the United States, State sovereignty, the laws of Louisiana, were nothing to it—part of the internal machinery of our Government. The injured persons and the responsible Power were the only things with which Italy then had concern.

The political relation of the Transvaal to Great Britain is certainly not the same as that of one of our States to the central Government; but Great Britain, by retaining the ultimate control of foreign relations, and by her well-defined purpose not to permit interference in the Transvaal by a foreign Power, was responsible for conditions of wrong to foreign citizens within its borders. She had surrendered the right to interfere, as suzerain, with internal affairs; but she had not relieved herself, as by a grant of full independence and sovereignty she might have done, from responsibility for injury due to internal mal-administration; any more than the United States was relieved of the responsibility to Italy by the State sovereignty of Louisiana. The responsibility thus remaining gave the right to require, not that this or that change should be made in the internal administration of the Transvaal, but that the condition of the foreign population should in some way be made socially and economically tolerable. The method was not her affair, but the result was. Internal affairs and external relations are logically separable; but mutual interaction takes place between them.

Citizens of other States, however, formed a minority of the Uitlander population; a majority were British subjects. To these the duty of Great Britain was that of a State to its citizens residing in foreign countries, everywhere throughout the world. If they received wrong, she had the duty of reclamation; if the wrong were continuous, she owed sustained diplomatic pressure for a change of action; if this were refused, she had, by international law, the right of war. When the exercise of this last right becomes a duty, is a question for the sole decision of the injured State. In this particular the Transvaal stood to her, by her own act, in the relation of an independent State. Control of internal affairs had been conceded to it, and to demand, as suzerain, a change of

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the laws, would have been to break the compact. "The British Government," says Mr. Bryce, "always admitted that they had no right to demand the franchise;"* an assertion which demonstrates the correctness of their attitude, and which is most fully substantiated by the papers submitted to Parliament. But it was no breach of compact to demand that existing wrongs should be righted, leaving to the Transvaal authorities the determination of the methods—the internal arrangements—by which the result was reached. Such pressure rests on international law, would be as applicable to a difficulty with the United States as to one with the Transvaal, and, if wrongs sufficiently great existed, it was the duty of Great Britain to exert such pressure. This was her second duty. There was a third that will be mentioned later.

Did such wrongs exist? In my judgment there certainly did, and of a character and extent that, if not remedied, would justify war. Of course, when one comes to estimate injury, great differences of opinion will be manifested. It is not every small wrong that makes it expedient to go to law; nor does even serious damage constitute an unendurable wrong. But, if it be hard to measure wrongs in degree, it is less difficult to value them in kind; to recognize an underlying principle, and to see that when this is violated by rulers, there is planted a root of bitterness which sooner or later must bear its evil fruit, and which therefore cannot be too soon extirpated. I prefer here, first, to state the character of the Transvaal Government in its relation to the Uitlanders in the words of Mr. Bryce, for not only are his moderation and candor universally recognized, but he has not approved the course of his own country in so far as war has by it been made inevitable. "The position of the Transvaal Government, although it had some measure of legal strength, was, if regarded from the point of view of actual facts, logically indefensible and materially dangerous. . . . They—or rather the President and his advisers—committed the fatal mistake of trying to maintain a Government which was at the same time undemocratic and incompetent. . . . An exclusive government may be pardoned if it is efficient; an inefficient government, if it rests upon the people. But a government which is both inefficient and exclusive incurs a weight of odium under which it must ultimately sink; and this was the kind of government which the Transvaal attempted to main-

* "Impressions of South Africa," Second Edition. p. xxxiv.

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tain. They ought, therefore, to have either extended their franchise or reformed their administration."*

Reform of the franchise was what the British Government suggested, but could not demand; for it had no control of the internal affairs. But, underlying all this undemocratic and inefficient Government, was unwillingness to acknowledge the fundamental principle, by the maintenance of which liberty has made each painful step upward, viz., that taxation rests in the hands of the taxed community, acting through its representatives, while enlargement of the basis of representation is one of the particular notes of modern political advance. The Uitlanders produced more than nine-tenths of the revenue, but the terms upon which they were admitted to the franchise were so exorbitant as to be prohibitory. Especially grievous was the condition that between naturalization and franchise a long period intervened, during which the man had lost his old citizenship without acquiring the privileges of the new. While in that position he was no man's man, having lost his hold on one country, while in the other he had obtained no rights, but only duties; such as compulsory military service, and the payment of taxes, in the levying of which he not only had no vote at the polls, but no organ of speech, no adequate representative, in the deliberations of the Legislature.† The political sin of the Transvaal against the Uitlander, therefore, was no mere matter of detail—of less or more—but was fundamental in its denial of elementary political right.

Consider the conditions of the franchise in June last, at the time of the Bloemfontein Conference, between Sir Alfred Milner and President Krüger. In 1882, one year after the Convention of Pretoria, the period for attaining the full franchise, which in the earlier days of the community had been one or two years, was fixed at five years. In 1885 came the gold discoveries, with the inflow of the mining population, and in 1890 the time was extended to fourteen years. Nor was this all, although extremely oppressive, judged by all modern standards, when it is considered that the men to whom it applied were those who were developing the resources of the State and producing nine-tenths of its revenue. The law was made applicable to those already in the country; so that

* "Impressions of South Africa," Second Edition, p. xviii.

† The gold fields, in which district live most of the Uitlanders, who alone are far more numerous than all the burghers in the Transvaal, had but two representatives in a House of 28.—C. 9404, p. 54.

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men who had entered in 1886 and the intervening years, however valuable as members of the community, were unable to acquire full citizenship in five years, according to the conditions of their immigration, but were compelled to wait fourteen. To this were attached other vexatious regulations, which made it an onerous task for a man to establish his claims, and left it in the power of the authorities to retard and thwart him in his effort to gain citizenship. Above all, by a singular provision then introduced, an interval of twelve years was interposed between naturalization and full franchise; the latter consisting in power to vote for members of the First Volksraad, in which the valid legislative power of the Republic is concentrated. During this period, a man, having become by naturalization a citizen of the Transvaal, lost the protection his native country would give him, in case of injustice, but acquired no real share in the government of his new State.

That any men of English or American origin would rest quietly under such political treatment is most improbable; but it is impossible unless administration be such as to give them all the benefits of pure and efficient government. This, however, was not the case, as Mr. Bryce has said. Into the details of mis-government there is not here space to go; they must be sought in the many books on the subject. A Boer partisan cynically observes, "In the Transvaal the poor have the power, and compel the rich to pay the taxes;"* the truth being, however, that an armed minority holds the power, compels the majority to pay the taxes, denies it representation, and misgoverns it with the money extorted.

Such internal administration must entail external complications. In the neighboring British colonies there is a large Dutch population, which everywhere possesses equal political rights with its British fellow subjects. The wrath of the latter was stirred by the inequality and indignity suffered by their countrymen in the Transvaal; and the political agitation instituted by the Uitlanders was warmly seconded by the men of English blood in the surrounding districts. Both carried their appeals to the home Government, and the latter was made to feel that the loyalty and contentment of the colonist, upon which depends the integrity of the Empire, require that the latter not only be just itself, but shall exact justice for its citizens when clearly refused to them by others. That

* Hillegas: "Oom Paul's People." p. 232.

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this view of the South African colonists was shared by the other parts of the Empire is shown by the enthusiasm with which, not Great Britain alone, but Canada and Australia espoused the cause of the Uitlander. The wrongs of the latter, by intensifying a common sentiment, have done more to rivet Imperial Federation than aught that planning and organization could contrive.

The British Government has for nearly a decade been confronted with the conditions which resulted last year in the Bloemfontein Conference. At this the British representative expressly disclaimed any intention of "giving orders or commands."* There had been long disagreements between the two States, which were increasing instead of diminishing. In his opinion, "the cause of the most serious differences arises out of the policy pursued by the Government of the South African Republic toward the Uitlander population."† If that "Government, of its own accord, would afford a more liberal treatment to the Uitlanders, this would not increase British interference, but enormously diminish it. If they were in a position to help themselves they would not always be appealing to us under the Convention." As a definite proposition he suggested that the full franchise should be given to every foreigner who had resided for five years in the Republic—thus reverting to the law of 1882. To this could be attached a property qualification which would prevent so many new voters as would outnumber the old burghers. Also, as the Uitlanders mostly live in one district of the Republic, and in order that their representatives should not be "in a contemptible minority," he proposed that there should be a certain number of new constituencies in the First Volksraad.‡

The Conference separated without reaching an agreement. On June 15, the Raad adjourned, to allow members to consult their constituencies. On July 3 it reassembled, and in the course of the month passed an act granting naturalization and full franchise to residents of seven years, having certain property qualifications. Not only was the period thought too long, but to the process of obtaining these rights were attached conditions so complicated as to be unsatisfactory to the Uitlanders and to the British Government; for it was believed that they could, and would, be used to defeat the applicant. A request of the British Government for

* Parliamentary Papers, C. 9404, p. 16.
† *Ibid*, pp. 14, 15.
‡ *Ibid*, C. 9404, p. 3.

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"an opportunity of making its views known on this new franchise law" was refused, on the ground that "the First Volksraad had now 'passed the law and finally fixed it.'"* Diplomacy cannot go on when one side invokes the law of its land to close discussion. The South African Republic overlooked the fact that, where parties disagree, agreement must mean acceptance by both, whether with or without war.

Being thus dissatisfied, the British Government, on August 1, invited the Transvaal to appoint delegates, to discuss with British delegates, whether "the Uitlanders will be given immediate and substantial representation by the Franchise Law recently passed, together with other measures connected with it—such as increase of seats—and, if not, what additions or alterations may be necessary to secure that result."† To this Commission of Inquiry the Transvaal Government was averse, assigning as its reason that joint inquiry would prejudice the right of full independence in internal affairs; and on August 15, intimated that it was "willing to make the following proposals, provided that Her Majesty's Government are willing not to press their demand for the proposed joint inquiry into the political representation of the Uitlanders."‡ These proposals were: A five years' retrospective franchise, which was Milner's suggestion at Bloemfontein; ten seats in a First Volksraad of thirty-six members; and certain other minor concessions.§ With these propositions, however, were coupled three conditions, one of which was a provision for arbitration, to which the British Government acceded tentatively. The other two, already quoted, were: "That Her Majesty's Government will agree that the present intervention shall not form a precedent for future similar action, and that in the future no interference in the internal affairs of the Republic will take place; and that Her Majesty's Government will not further insist on the assertion of suzerainty."‖ The latter was refused; to the former the reply was that, "Her Majesty's Government cannot, of course, debar themselves from their rights under the Conventions, nor divest themselves of the ordinary obligations of a civilized Power to protect its subjects in a foreign country from injustice."¶ The British

* Parliamentary Papers, C. 9518, pp. 51, 58.
† *Ibid.* C. 9518, p. 30.
‡ *Ibid.* C. 9521, p. 44.
§ *Ibid.* p. 46.
‖ *Ibid.* pp. 46, 47.
¶ *Ibid.* p. 50.

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Government had not interfered in the internal affairs of the Transvaal, as implied by the latter. Seeing the oppression of its citizens there, and the resulting friction between the two Governments, it had demanded relief, suggesting that a liberal franchise would most surely afford this, and it had refused to accept, as adequate, measures that in its judgment were inadequate; but further than suggestion no claim to intervention, as suzerain, was advanced. Of course, the compulsion of force—of possible war—hung in the background, as it does in all diplomatic disputes of a critical nature between States, even mutually independent.

Dissatisfied with this reply, the Transvaal withdrew its offer. The subsequent negotiations are important as elucidatory, but may be neglected, as not otherwise essential to the merits of the case. On October 9 the Transvaal issued its ultimatum. In my opinion, the question who declared war is immaterial, except for the moral effect upon the sentiment that condemns all war, judges mainly by feeling and preconception, and looks little into causes. Briefly stated, the argument in my mind runs thus: There were in the Transvaal some 60,000 Uitlanders and 30,000 Boers* of an age fit for suffrage. Of the former the great majority were British subjects. They were oppressively misgoverned, and were denied both franchise and representation. In a Volksraad of twenty-eight there were from their district only two, in the choice of whom they had no adequate voice. They raised the revenue, from less than a million, to twenty million dollars. Their appeals for good administration and for fair treatment were disregarded. They had entered the country by encouragement of the Government,† many of them at a time when five years' residence conferred the franchise; but before they could obtain it the period was increased to fourteen years. The laws were unstable and easily altered; confused, purposely or not, so that the difficulties of qualifying were enormously increased. Unable to become citizens, unprotected, and unable politically to protect themselves, they appealed, as every domiciled foreigner does, to their home Government. Innumerable complaints cumbered the files and embarrassed the relations of the two States. Agitation spread throughout South Africa, defining itself on lines of race feeling, never wholly ex-

* President Krüger's estimate.—Parliamentary Papers, C. 9404. p. 19.

† Letter of Ewald Esselen, Secretary to Transvaal Deputation in London, December 21, 1883. *Contemporary Review*, February, 1898; Article, "Real Grievances of the Uitlanders."

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tinguished, and threatening the deplorable antagonisms that thence arise. The elements of a conflagration were all there, and the atmosphere rising to the kindling point. To compose the trouble, Great Britain suggested a plan eminently reasonable, unfair only to the Uitlanders, to whom it gave far less than all white men throughout South Africa receive at British hands, and she refused to accept as satisfactory anything less than the minimum of remedy; for let it be continually remembered that the franchise was sought, not mainly as an act of justice, but as the most promising means of escape from a position become unendurable.

"The franchise," says Mr. Bryce, "did not constitute a legitimate cause of war."* In this it appears to me there is a confusion of idea, or a begging of the question. The question is begged, if it is implied that the cause of the war was a demand, based on suzerainty, for an extended franchise. That would not be a legitimate cause. But, in so far as a cause good in morals is legitimate, the denial of an adequate franchise was a legitimate cause of war, because, in the absence of an adequate alternative, it kept in a condition of intolerable oppression a number of British citizens who had been invited to commit their persons and their fortunes to the protection of the Transvaal Government, in order to develop the resources of the country. Great Britain had the highest moral duty to see that those people received—not the franchise necessarily—but fair treatment and decent government. There is not an American pro-Boer partisan that would have endured for six months the conditions of the Uitlanders, without appeal to his Government, if it were in a position to aid.

That race differences were at the bottom of the war is an interesting philosophical explanation, and has its value. It is true, indeed, in great part, as a fact; for I trust no American or English community in the present day could, without its own blood boiling in its veins, give to any indwellers such treatment as the Boers have given the Uitlanders. But whatever part race differences have played, it has been as an ultimate cause, not as a proximate. The occasion of the war has been as described.

To the occasion, also, every consideration of duty and of expediency combined to compel Great Britain; to constitute a third duty already alluded to—the duty to the Empire. The peace of

* "Impressions of South Africa," Second Edition, p. xxxiv.

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South Africa was not merely imperilled; it was destroyed, unless the conditions were healthfully and radically changed. Whether there was any widespread, organized conspiracy to supplant British rule by Dutch, is a matter only of inference; but it appears to me beyond doubt that a considerable number of Boers throughout South Africa cherished that purpose, consciously, and had succeeded in setting in motion feelings and conditions—of which the Transvaal was the centre—that would, unless abruptly checked, result in the subversion of British rule. We in America, who know the history of Secession, know to what lengths small beginnings, ably guided, can go. The political complexion, tenure and stability of South Africa, however, are not a concern of the British Isles only, but of the British Empire. My professional opinion does not attach supreme, exclusive, naval importance to the Cape route as compared with that of Suez; but the mass of sound British opinion does, and its commercial value is beyond dispute. To India and to Australia it is of the first consequence; to Great Britain and to Atlantic Canada hardly less. The Cape is one of the vital centres in the network of communications of the whole Empire. To let it go, wrenched away through culpable remissness, would be to dissolve the Empire; and justly. A government is not worthy to live, that, having shown to all its subjects the impartiality and liberality which Great Britain has to British and Dutch alike throughout South Africa, should supinely acquiesce in the conditions of the Transvaal, as depicted, or fail to take heed that the Dutch Afrikander, as a class, has so little learned the lessons of political justice and true liberty, that his sympathies are with the Boer oppressor rather than with the Uitlander oppressed. Under such conditions it would have been imperial suicide to have allowed the well-known, though undervalued, military preparations of the Transvaal to pass unnoticed, defiant oppression to continue, and race disaffection to come to a head, until the favorable moment for revolt should be found in a day of imperial embarrassment. To every subject of the Empire the Government owed it to settle at once the question, and to establish its own paramountcy on bases that cannot be shaken lightly.

A. T. MAHAN.

NOTE.—The Parliamentary Papers referred to in the foot-notes contain the official correspondence of *both* parties to the negotiations.

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THE DOOM OF THE BOER OLIGARCHIES.

A NETHERLANDER'S VIEW OF THE SOUTH AFRICAN PROBLEM.

BY THOMAS C. HUTTEN.

THE widespread prevalence of Boer sympathies, account for it as one will, is an obtrusive fact. Anti-British demonstrations are reported from nearly every large city of the German Empire. Italian Liberals applaud burlesques at the expense of the nation that ridiculed the results of the Abyssinian enterprise. The harangues of Lisbon agitators are attracting mobs that have repeatedly overawed the Metropolitan police. In France, every rumor of Boer victories is hailed with shouts of exultation. "*Rasgalosotravez*"—"hit 'em again"—is a stereotyped heading of Spanish papers that confidently predict that the flag of the Boer Confederation will soon wave from the ramparts of Table Mountain.

Few of these sympathizers would be able to comprehend the significance of the fact that their acclaims have awakened but few responses in Holland, and that the attitude of the Netherlandish press is almost one of neutrality—even in cities where no police regulations could suppress the outbursts of popular enthusiasm that kindle about individual Afrikanders.

America, however, can interpret those signs of the times from analogies of her own experience. The citizens of the quasi-neutral Middle States would hardly deny that a large percentage of the thousands who championed the cause of the Confederacy were noblemen in Nature's truest sense of the word: chivalrous, persevering, enterprising, cheerful and hospitable under extreme difficulties; and it is equally indisputable that they had taken up arms in defence of the worst cause that, perhaps, ever united five million

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intelligent beings of our species. France might remember the gallant Vendeans, whose campaigns in the crisis of the Revolution very nearly reversed the current of liberal reforms, and the victors of the Boyne have not yet forgotten the valor of the exiles who died in defence of a despot.

But it may be questioned if heroism and baneful prejudices were ever more strangely united than in the stock-breeder communities of South Africa. To say that the social tendencies of Boerdom are a hundred years behind the march of progress, would be an insult to the culture of the eighteenth century. Their votaries are relics of the dogma-crazed Middle Ages, uncompromising disciples of the bigots who exiled Hugo Grotius and blighted the career of the patriot Barneveldt, of the obscurantists whose opposition to every national reform forced Holland from her proud position in the forefront of cosmopolitan enterprise.

There was a time when the Netherlands held the keys of fourteen magnificent colonies. They anticipated Great Britain in Australia, in South Africa, in Borneo and Ceylon, at the mouth of the Hudson River, in Japan, China and Burmah.

They checked the ambition of France; they humbled the world-power of Spain.

"Every invader," says Macaulay, "could at that time" (the end of the seventeenth century) "insult and plunder the heir of Charles V., while one of Spain's former dependencies had become a power of the first class and treated on terms of equality with the courts of London and Versailles." Another half-century of success would have placed Holland at the head of the progressive nations.

What has become of those bright prospects? They were eclipsed by the clouds of fanaticism; the tree that had weathered the storms of the Thirty Years' War was blighted by the worms of internal decay. While England, France and Germany fought the battles of science, our obscurantists quarrelled about ceremonies and legends. While our neighbors enforced the rights of man, we enforced tithes. We forfeited the prestige of our fathers. In the struggle for colonial supremacy, we could no longer hope to profit by the survival of the fittest. Victorious foes at last crossed our own frontiers.

In that period of a precarious struggle for the preservation of our national existence, thousands sought refuge in exile; but even

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then party bias dictated the choice of a new home. The champions of liberalism migrated to the "Gardens of the Sun," to Java, Sumatra and Celebes; their adversaries went to the Dark Continent.

We had no reason to wish them ill-luck, and were glad to see them succeed to the extent of attracting a few additional shiploads of their sympathizers; but we knew them too well to delude ourselves with the hope of their permanent prosperity.

They would, perhaps, have done better to settle nearer the centre of the continent, at the sources of the Congo, or in the Mountains of the Moon. A colony of mental mummies might hold its own in a region of absolute darkness, but could not hope to prosper beside communities basking in the sunlight of civilization.

An instinctive appreciation of that fact induced the Transvaal refugees to surround themselves with a Chinese wall of the most exclusive by-laws that have perhaps ever been enacted since the time when Dictator Francia stampeded his Uitlanders with gunpowder arguments. In some respects the administrative arrangements of his Sultanate were, in fact, more liberal than those of the South African "Republics." As long as the citizens of the scattered frontier towns did not engage in contraband traffic they were at liberty to settle their own religious controversies, frame their own school laws, and elect their own municipal officers. The subjects of the Transvaal Volksraad never enjoyed such privileges. A Junta, more narrow-minded, more intolerant, more obstinate than the State Council of mediæval Venice, restrains their progressive tendencies, and reduces their suffrage to the formality of ratifying a prearranged programme. Parish bigots complete that system of feudalism. Rationalists exist, but a liquor dealer, advertising his stimulants on the temple walls of Mecca, would not provoke more immediate ruin than a philosopher expounding the principles of liberalism in a Transvaal country town. An aggressive boycott would be organized in less than forty-eight hours. The dissenter's neighbors would be warned to cut his acquaintance. Gangs of superstition-crazed Yahoos would howl under his windows after dark. Goodwives, at his approach, would snatch up their youngsters and slam the door in his face. A ceaseless cackle of vituperation and slander would dodge his steps from house to house, from camp to camp; till, for the sake of peace, he would recant his convictions or seek refuge in a settlement of Uitlanders.

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The Transvaal "Republic" is administered in the interests of a conservative clique of about three dozen families. "He heaps up pensions and preferments on his relatives in a way that would put Tammany Hall to shame," writes Mr. T. A. McKenzie in his recently published pamphlet on President Krüger. Yet the Grand Boer, with all his edifying proverbs and orthodox quotations, is not quite conservative enough to suit a plurality of the Junta. He is just tolerated, as a pious, but withal easy-going, Gentile would be tolerated in a community of Mormon fanatics.

The compromise projects were fiercely contested by sages of the school that ascribed a plague of locusts to the toleration of Jews and Catholics, and proposed to avert the consequences of a drought by public penance. They overruled his plan to shorten the probation period of resident foreigners. Their muttered threats of impeachment forced him to precipitate the declaration of war.

The proximate causes of the war, it is true, seemed to entitle the Afrikanders to the sympathy of every lover of justice. A British-African syndicate of political stock-jobbers had plotted the destruction of their political independence. Their frontiers had been invaded without a previous declaration of war. An insolent bureaucrat had attempted to bully their chief magistrate into a change of domestic policy. As victims of wanton provocations, the Boers were clearly justified in striking the first blow in defence of their national existence.

But it is not the first time that a proximately justified war has been waged for indefensible ulterior purposes. The war of 1898 was forced upon Spain. In 1756, the Kidnapper of Silesia had to take up arms in stress of self-preservation. After the massacre of the Alamo, the persecutors of Texas dissenters would have been glad to purchase peace by any available means, but were forced to choose between war and national dishonor. The despot of Dahomey tried to avoid the campaign that cost him his throne and his life.

The Afrikanders were badgered into a frantic appeal to the arbitrament of arms, and, from one point of view, that crime is apt to appear like a consummation of many crimes, for it is not the first time that the thrifty settlers of South Africa were ousted from their farms and forced to seek new homes in the wilderness.

But it is a fact that on all previous occasions the dislodging force was the pressure of competition. Though numerically su-

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perior, the feudalists of Cape Colony could not hold their own against the rivalry of a progressive race, and they pushed further and further north, as the Mormons moved ever further west and the Finnish tribes of Sweden further east.

As pioneers, as hunters, trappers and herders, they were more than a match for all European rivals; as citizens of an industrial community they were constantly made to feel the weight of their mental handicaps. Their feelings toward the usurpers of their homesteads were the bitter feelings of humiliation that make the peons of the Rio Grande frontier both dread and detest the victorious wizards of the North.

In the exultation of their success, the champions of civilization have underrated the physical prowess of their neighbors, and they are now paying the penalty of their mistake. But their ultimate triumph cannot be doubted, and that most horrible stimulant of savage passions, a protracted war of races, may prove a blessing in disguise if it should result in freeing the entire reclaimable part of Africa from the incubus of a political anachronism.

THOMAS C. HUTTEN.

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AMERICA'S ATTITUDE TOWARD ENGLAND.

BY R. A. ALGER, FORMERLY UNITED STATES SECRETARY OF WAR.

THERE has probably been no war in modern times as to the necessity or justice of which the opinions of men have not been sharply divided. In 1870 the responsibility for the bloody contest between Germany and France was cast upon the one country or the other, according to the judgment which the critic had formed of the events and negotiations which preceded the outbreak of hostilities. In the Græco-Turkish war, the partisan of the Greeks vindicated their cause against the aspersions of the Sultan's supporters. In our own war with Spain, the verdict as to the course of the United States was far from being one-sided, and even among our own people there were some—fortunately not many—who condemned the action of their country. It would be strange, indeed, if the present war in South Africa afforded an exception to the historical rule. That it has not done so is sufficiently obvious; for, while Great Britain is not without sympathizers among the people of European nations, the great majority of Continental observers appear to have ranged themselves on the side of the Boers; while in the United States—and even in a measure in Great Britain itself—diverse views are entertained in regard to the merits of the questions in dispute between the Britons and the Boers, which have been brought to the dread arbitrament of war.

The intensity of the interest which the present conflict has excited throughout the world is reflected in the force and vigor with which the adherents of the contending peoples have given utterance to their respective views. In the press, on the platform and in private conversation the controversy has raged, being not infrequently conducted in an intemperate spirit of passion and bitter prejudice; and in that way the issue between the British Empire and the Republics in South Africa has been discussed in almost every civilized country.

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It is most unfortunate that in the United States the expression of opinion on the war has exceeded legitimate limits. In not a few cases, the public men of our country, who stand in a representative relation to their fellow citizens, and whose words have therefore a significance which never can attach to those of private individuals, have gone out of their way to pass unfriendly judgment upon the action of the British Government. Resolutions in favor of the Boers have been adopted, not only by large mass-meetings of private citizens, but even by the Legislatures of some of the States.

Such a course is greatly to be deplored, especially since the animus is directed against Great Britain. Two years ago, when, under the not too friendly observation of some of the Powers, we were discharging our duty as the guardian of liberty and humanity in the Western Hemisphere, Great Britain stood conspicuous among the nations as our friend. Nor was her cordial sympathy valueless. She remained strictly neutral; but her whole attitude toward us was so unmistakably friendly that its influence in preventing what might otherwise have occurred in the way of European intervention will never be capable of full measurement. Great Britain did nothing and said nothing, yet by implication she warned all other nations to attend to their own business and leave us to work out our problem alone. We owe her a deep debt of gratitude, and the very least we can do is to abstain from interference in her present struggle in South Africa.

I have heretofore and elsewhere stated these convictions as to the duty of the United States at the present crisis; and the number of communications which I have received endorsing my views strengthens my belief that they are shared by a substantial proportion of the American people.

It is greatly to be regretted that a man of Mr. Bryan's position, hoping as he does (I trust and believe in vain) that he will some day be President of the United States, should go about the country trying to create a difference between America and Great Britain. He is the spokesman of a great American party, and it would not be surprising if, speaking in that capacity, he placed the country in a false position before the world in its relations to the South African situation by passing from place to place, attempting to further his political ambitions by fanning into flame whatever anti-British sentiment he may find among our heterogeneous population. Here, where he is known, the object of his endeavor to

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incite the American people against the British will be understood, and his statements will be valued at their true worth. So far as I am aware, he has never contributed anything that has added to the substantial growth of this country, either by employing men or doing anything to develop our industries. To use a little slang, he seems to produce "nothing but wind and noise." The course he advocates with regard to the financial policy of his country would disgrace us in the eyes of the world, ruin our credit and place us at the rear, instead of the van, where we now are, among the great commercial nations of the world. But abroad, where he is regarded only as a political leader with a large following, his words as to the policy of a friendly nation may have greater weight and effect than they ought to have.

If, during our war with Spain, the leader of one of the great political parties in Great Britain had indulged in frequent denunciation of the United States and of the motives which animated the United States in their determination to free Cuba from Spanish control, his conduct would have aroused the most bitter resentment in the minds of our people from Maine to California and from the Canadian frontier to the Gulf. If in the House of Commons and in the House of Lords prominent British statesmen had introduced resolutions condemning our Government and expressing sympathy with the weaker power against which, under a sense of duty, we had turned the vast resources of our country, the act would have excited just indignation in the breast of every American patriot. But we had no such experience. And I hold that we should treat Great Britain in 1900 as squarely as she treated us in 1898.

R. A. ALGER.

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COULD THE WAR HAVE BEEN AVOIDED?

BY S. M. MACVANE, PROFESSOR OF HISTORY IN HARVARD UNIVERSITY.

In the January number of this Review Dr. Leyds gives the following answer to the question, "How Could the War have been Avoided?"—

"England had acted in such a manner as to render it absolutely unavoidable. The Boers did to avoid it everything that it was humanly possible to do."

The official correspondence shows that any one of three courses, if taken by the Boers, would have averted the war.

(1.) They could have avoided the whole trouble by removing the most oppressive abuses of which the Uitlanders complained. Was it not humanly possible, for example, to have abolished the monopolies, to have improved the police, to have admitted Uitlanders to juries—in a word, to have taken the sting out of their exclusion from political rights by giving them friendly consideration in other ways? Government by a minority can do something to justify itself by trying to be a good government. Minority rule coupled with crying abuses is impossible in the modern world. If there had been no abuses, there would have been no intervention.

(2.) After intervention came, there were still two alternative courses open, either of which would have averted the war. The English Government would have been satisfied with the grant of a subordinate municipal government to the Uitlander community, with the right of managing their schools, police and other local affairs in their own way. This was summarily rejected by President Krüger as a proposal to create an *imperium in imperio;* but that seems a poor reason. Other countries grant such rights; why was it not humanly possible for the Boers to grant them?

(3.) The third alternative was to grant full burghership to such of the Uitlanders as fulfilled certain requirements:

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1. Such as had resided in the Republic five years or longer;

2. Such as had declared on oath their intention to remain;

3. Such as had acquired property or an income of a certain amount;

4. Such as had taken the oath of allegiance and sworn to defend the independence of the State.

The new burghers so admitted to have a few members in the Legislature (the First Raad); the highest number suggested was five, in a house of thirty-one. Why was this not humanly possible? That it *was* humanly possible is pretty conclusively shown by the Boer offer of the 19th of August, to do even more than this. Unfortunately, the Boers attached to the offer conditions which, however desirable they may have been from the Boer point of view, had no obvious tendency to make the acceptance of the offer by England as humanly possible as it would have been without them. The conditions were that England should (*a.*) accept arbitration, (*b.*) drop the controversy on the suzerainty, and (*c.*) never intervene again. How could acceptance of these conditions make possible a grant of political rights to the Uitlanders? Would there have been less danger of their swamping the old burghers with than without these concessions from England?

Further, England accepted the offered redress for the Uitlanders; accepted also in substance the first and second conditions; the other she declined, giving two clear reasons for the rejection of it. The Boer Government replied, saying that the third condition had not been intended to include the cases alleged by England as her reason for rejecting it; but they at the same time *withdrew the whole offer,* and never afterward renewed it.

Is that so clearly a case of doing all that was humanly possible to avert the war?

S. M. MACVANE.

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AMERICA AND THE WAR.

BY SYDNEY BROOKS.

NINE months ago, at the time, that is, of the Bloemfontein Conference, when the Transvaal question was formally reopened, England and America stood closer together than at any period of their separate histories. The unstinted sympathy of the English people during the Spanish War, and especially the attitude and services of the British Government, had at last opened American eyes to what they should have seen long before; and, no doubt, would have seen, but for a host of factitious circumstances, aided perhaps by a little wilful blindness. To an Englishman of the post-bellum generation, who knew how genuine was the attachment to the United States that had grown up among all classes in England during the past thirty years, there was, indeed, almost a touch of absurdity in the astonishment with which America hailed the first proofs of it. But England's was not the only surprise which the war sprang upon the United States. The friendship for France and Russia which rested on the same basis of sentiment and tradition as the old enmity to England, and was equally divorced from present-day facts, crumbled away just as rapidly when put to a real test. Germany, who, in the simplicity of American inexperience had been counted on as at least a benevolent neutral, showed the snarling hostility expected of her by every one outside of the United States. America made her first essay in *Weltpolitik* in the teeth of a sullen and resentful Europe, and unwelcomed by any friend but England. The year 1898 has been called the year of Europe's discovery of America. It might much better be spoken of as the year of America's discovery of Europe. Then, for the first time, did the United States realize that it is not safe, and may be quite misleading and even a little foolish, to judge the present by the past—to conclude as a matter of course that the France of Lafayette is necessarily the

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France of to-day, and that England must always be panting for a chance to fit out another "Alabama." We have grown used to being hated, envied and misrepresented on the Continent, but for America the experience was new. The enmity that used to be confined to the English nation was expanded to include all English-speaking peoples, and succeeded, of course, merely in bringing the two great divisions of the race into closer union. This union the essential tendency of the enormous quantity of history manufactured in the following two years greatly strengthened. Omdurman and Fashoda did something; Samoa more still; the Far Eastern crisis penetrated even the provincialism of Congress with a sense of the oneness of English and American interests; and as Americans advanced gingerly along the road of Imperialism and began to appreciate the nature of the boulders in their path, they came for the first time to a true perception of what England had done for the world, and of the difficulties she had met and conquered in doing it.

The two countries stood, in fact, just where most rational people wanted them to stand, and knew, even in the thick of Venezuelan squalls, that ultimately they must stand. The only nations on earth that have made it their policy to eschew formal alliances found themselves in an alliance that needed no official endorsement—an alliance of sympathy and kinship, and the understanding that comes from the possession of common aims and ideals. Better still, it was an alliance—I know Americans jib at the word, so I would be understood to use it in an ultra-Pickwickian sense—based on the enduring quality of national self-interest. It was remarkably free from gush on the British side; and on the American from that flattering suspiciousness of British diplomacy which wrecked the Arbitration Treaty—a suspiciousness that used to awake Homeric laughter among Englishmen, who are quite indignantly conscious that the great fault of their diplomacy is that there is nothing to suspect in it. It was, in short, a coming together of two nations, one of them long desirous of reconciliation, the other forced by events to stop playing at make-believes, especially the make-believe of being enemies, and collect herself for the effort of seeing things as they were. Out of tenderness to American prejudices, and to make the process of education as little startling as possible, neither Government cared to make any great official display of the new sentiment; but for all that, it was wide-

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spread and profound. How profound and how widespread may be recalled from the fact that the professional Anglophobiac, who has often the Celtic grace of tact and sensitiveness to atmosphere. actually held his tongue for two solid years. America seemed a little dull just at first without his familiar rhetoric, and the calm more uncanny than holy, as though some Niagara had ceased to flow. But we thought steadfastly of all the good it meant for civilization and so bore with his suppression, which turns out after all to have been but for the moment.

It was a question with Englishmen how long this cordiality would last. America had proved herself a good hater. Would she show herself an equally stanch friend? The conversion, it could not be forgotten, had been somewhat sudden. It was, if I remember rightly, one evening at the end of February, or possibly the beginning of March, 1898, that America stumbled upon "a new fact." Forthwith, the case against England was taken down from its hoary shelf, reopened, retried and a verdict of full acquittal given in England's favor before morning. We said good-night with cousinly restraint and fell into one another's arms over the breakfast table as long-lost brothers. It was quick work even for the facile American. Indeed the very ease of the transformation made one suspicious of its durability. True, America at that time was sloughing day after day, without appearing to notice it, other traditions as inveterate and cherished as her belief in English enmity. But that was no guarantee, especially as one noticed signs of an even excessive devotion to the new religion, that the particular change of faith in which we were so interested might not turn out to be merely the output of a lucid interval. The pace struck some anxious observers in England as a little too hot to last. Reformation in a flood is comprehensive enough for the moment, but the flood is apt to abate.

England can never be indifferent to what America thinks of her conduct; but it was with a quite special concern that we watched the slow development of American opinion on this Transvaal question. I believe I am right in saying that at the time of the Bloemfontein Conference the overwhelming majority of Americans—of those, at least, who had troubled their heads about the matter at all—were in sympathy with England. They saw in the South African Republic a sordid and oppressive oligarchy in a state of perpetual opposition to a primary American principle—

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the principle that where men are taxed they ought also to have a voice in the government that taxes them. They recognized in the Boers a backward and uncouth community such as the United States had had to deal with in the Mormons. They realized that the unrest in the Transvaal, infecting all parts of South Africa, constituted a state of affairs which Great Britain, with her enormous stake in the country, could not afford to ignore. They perceived that the Jameson Raid was not so much the cause of the disturbance as its result, that President Krüger had failed to carry out any of the reforms solemnly promised to the people of Johannesburg, and that England had stretched almost to the point of weakness the natural hesitancy which a great Power feels in calling a weaker Power to account. They, therefore, looked upon the Conference as the best means of settling an irritating and somewhat undignified dispute, not doubting that it would be successful, or that its outcome would be a satisfactory and harmonious compromise. And this was not only the attitude of America, but of all Europe. It is worth remembering that the necessity of calling upon President Krüger to set his house in order was approved nowhere more emphatically than in France and Germany.

How completely this attitude has changed on the Continent within the last nine months is known and admitted in England. No attempt is made to hide the fact that even in Pitt's time the animosity of France was not more waspish than it is to-day; or that Bismarck's hatred of England is now the common sentiment of all Germany. But whether from that inspired ignorance of things American that still obtains in the United Kingdom—an ignorance which the correspondents of the English papers do very little to dispel and a good deal to foster—or from a blind trust in the permanence of the good feeling that followed the Spanish War, the veering round of American opinion has passed unnoticed or is flatly disbelieved. That it has veered round, it seems to me no Englishman who strives to go about with open eyes and mind can affect to deny. The fact to my observation is so patent and indisputable that I may as well take it for granted and deal with the probable causes of the change, before attempting a composite picture of the American attitude to-day.

It is one of the misfortunes of the British case that it has to depend on the cumulative effect of a large number of details. It

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cannot readily be summed up and presented in a single alluring sentence. It is a Blue Book rather than a popular case. It has no attractive catchword to command general sympathy, none at least so attractive as the Boer cry of "Freedom and Independence." One has to carry in one's head a great many dry facts and technical arguments to be convinced of its justice; and this is precisely the sort of labor that the average man shrinks from. He does not want to be bothered about franchise questions and dynamite and railroad monopolies and the liquor laws and the taxation of chemicals, and suzerainty quibbles and tariff and educational minutiæ; but to have a square issue neatly served up for his consideration, and the side which can make out the least abstruse case is the side to which his sympathies naturally lean. The squarest issue which came to view on the British side involved a paradox which it was difficult for America to stomach. It hardly seemed reasonable that England should be taking so much trouble to get rid of British subjects and hand them over to an alien State; and it seemed still less reasonable that a refusal on the part of the Transvaal to accept them on England's terms should be made a *casus belli*. Yet, with this exception, no dominating point arose out of the negotiations. Moreover, all the natural advantages, so to speak, of the dispute were on the Boer side. England was heavily handicapped by her size. The smallness of the Boer Republics was an unanswerable appeal to foreign, and especially American, sympathy. So were their history and the flavor of mediæval romance that hung round their lives and character. England, too, had never managed to shake herself free of the suspicion of stock-jobbing and speculative influences in her dealings with the Transvaal.

All this told heavily in favor of the Boers. Even so it might have been counteracted had the conduct of the negotiations been anything but what it was. America was both bored and befogged by Mr. Chamberlain's diplomacy. It tired of trying to keep track of its manifold gyrations, and it failed to detect in the fresh entanglements that each week seemed to produce either any straightforwardness of purpose or any rallying-point round which British sympathizers could gather. Lord Rosebery was complaining the other day that the Prime Minister made it very hard for the man in the street to support his policy. Mr. Chamberlain certainly made it difficult for the man in the cars to support or even com-

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prehend his diplomacy. As the weeks dragged on America was puzzled to know whether the Colonial Secretary was deliberately playing for war or hoping to coerce Mr. Krüger by a display of force. In either case his diplomacy seemed tactless, provocative and tortuous. It had the additional demerit of still further clouding the real issue. The climax came without America being able to grasp why it had come or what it was all about.

I have said that the natural, the superficial advantages of the case were all on the Boers' side. It is scarcely necessary to add that their valorous declaration of war confirmed these advantages, which were further strengthened and made more captivating by their surprising successes in the opening phases of the campaign. In a contest between a giant and pigmy it is hard to convince the average onlooker that the giant may, after all, be in the right, and harder still when his huge frame is staggering under the blows of his plucky little opponent.

One of the clearest and most detached observers of American and international politics, discussing the reasons for American sympathy with the Boers, let fall a remark which struck me as eminently just. "You must remember," he said, "that Americans are Gladstonians." Why Americans should elect to take their cue on English issues from a party which has shown itself during the last twenty years to be singularly out of touch with the real movements of English political thought, is a very fruitful question. But the fact that they do instinctively range themselves with the Liberals and against the Conservatives has had a very considerable effect in determining American attitude toward the Transvaal war. The leaders of the chief section of the Liberal party have been unsparing critics of Mr. Chamberlain's diplomacy and of the policy or lack of policy which brought on the war; and the views of Mr. Morley, Mr. Courtney, Sir Henry Campbell-Bannerman and Mr. Bryce—Mr. Bryce above all—have been received in America as revelations of the real and exclusive truth.

Politics, too, have inevitably had their say in the matter. The Democratic opposition to the President's Philippine policy includes denunciation of Great Britain as the "secret ally of the Republican party," the arch-example of Imperialism and the friend and abettor of the American venture in that direction; and the Democratic leaders have been able to make great play with the Boer war as a shocking instance of the fruits of "expansion."

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The Republicans have not accepted the challenge or acknowledged the parallel between the Filipinos and the Boers to be exactly on all fours; but an uneasy sense of what might be made out of the comparison has possibly kept their sympathy for the Boers within the bounds of temperance. The Democrats, on the other hand, "unfettered by a sense of crime"—in a way not intended by the poet—and overflowing with a novel but politically very useful zeal for abstract humanitarianism, have loosed their souls with satisfying and comfortable freedom.

And then, of course, there has been our delightful old friend, the professional Anglophobiac, resurrected anew after two years' interment. This has been a great and glorious time for him. He has bought flags and held meetings and passed resolutions to his heart's and lungs' content. He has cheered with intelligent fervor the amiable Mr. Bourke Cockran's description of Englishmen as "a set of perjurers," "ruffians in finance and ruffians in everything," and groaned with approving horror when this same accomplished publicist informed him that "in England a Catholic cannot hold office," and that the Uitlanders in the Transvaal numbered 35,000 and the Boers about 150,000. There even seemed to be a Vice-Presidential "boom" within reach of the still more amiable gentleman who publicly prayed that the war might "send up the price of crêpe in England." And so, no doubt, there would have been in years gone by. But to-day it is one of the Anglophobiac's many grievances that the genuine American no longer attends his meetings. Dutch-Americans and Irish-Americans and other hyphenated Americans are there in plenty, but not the real article. The tail-twister has done his best since the war broke out, and no doubt influenced some people, but the really palmy age of Anglophobia seems to have passed. It has been made too pitifully apparent that nine-tenths of his love for the Boers is made up of his hatred of the English, and the other tenth of ignorance of South Africa. In spite of his best exertions, the country is not greatly moved to see him exploiting the Boers, as five years ago he was exploiting the Venezuelans, to damage "the common enemy."

There is one curious obsession, of quite surprising hold on the average mind, which has driven many Americans to the Boer side. You will hear it trumpeted from all pro-Boer platforms and made the basis of their appeal for American support. Taking

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part during the last few months in various joint debates before clubs and literary societies in and around New York, I have seen my opponents dangle it before even intelligent audiences. The main fallacy is this—that the Transvaal war is a war between a monarchy and a republic, consequently between a system of tyranny and darkness and a system of liberty and enlightenment; and to it is appended a corollary to the effect that America is bound to sympathize with any and every republic in a conflict with any and every monarchy. It is hardly worth while to discuss such an elementary absurdity in the pages of this REVIEW—to inquire why Americans should consider the American idea to be wrapped up in the accident of a republican form of government instead of with the essential principles of democracy that underlie that form; to ask why they should prefer to stand by the great name instead of the great thing; or to point out that, anyway, the Transvaal had nothing republican about it except its title; that it was, in fact, a despotism masquerading under republican insignia, and that its whole policy and conception of the art of government were a flat denial of everything that America stands for. It is only in a country where education is rampant and the average man instructed up to the point where he may think foolishly for himself and resent being told how to think rightly by his natural leaders, that such a notion could hold its own for long.

A more respectable error which has doubtless estranged a good many would-be sympathizers with the British cause, is the suspicion that England is fighting for the gold mines or for territory. It would, of course, be just as sensible to say that America fought Spain for tobacco and the Philippines. We are not fighting for territory, for the sufficient reason that the Transvaal has no strategical or commercial attractiveness, outside of the Rand; and we are not fighting for gold mines (*a.*) because we own them already; (*b.*) because even if we didn't they would not be worth a conflict—our whole imperial policy forbidding us to draw any sort of direct profit from colonial wealth and thus making it a matter of completest indifference, from the financial point of view, whether the gold mines are on British territory or not; and (*c.*)—and Americans should not need to be told this—because the morality of the English-speaking people is such that you will never find any branch of it waging war for a purely selfish and mercantile purpose.

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Such, so far as I have been able to gauge them, are the main causes, artificial and otherwise, which have operated on American opinion to the disadvantage of the British. It is a more difficult matter to say with any precision how great their effect may have been or what is the exact attitude of America to-day. Certain features of that attitude, however, are, I think, indisputable.

The educated classes of the United States—the best opinion of the country—take up pretty much the same ground as that occupied by Mr. Bryce and the Liberals. That is to say, they believe that the grievances of the Uitlanders were real and vexatious, and such as the home Government was justified in seeking redress for. But they also hold that the time for entering on the question was singularly ill-chosen; that a few years more of patience would have allowed the memories of the Jameson Raid to die away and given the reforming party among the Boers a chance to regather strength, and that all the natural forces were on the side of the Uitlanders, not the least of them being the great age of the President and the certainty that his successor would have not one-tenth of his influence.

They hold, too, that nothing is to be gained from the war that can outweigh the inevitable alienation of the Dutch colonists and the enormous difficulty of governing the Transvaal and Orange Free State. They are entirely sceptical of the alleged Dutch plot to oust the British from South Africa. They are vigorous and pertinent critics of Mr. Chamberlain's diplomacy in setting to work by means of a semi-public conference, the break-down of which could only add to the ill-feeling on both sides; in making the franchise the chief issue and so neglecting to establish a legal *casus belli;* in raising the irritating and profitless question of suzerainty; in writing ambiguous dispatches just at the moment when the utmost precision was needed; and in adopting throughout the negotiations a tone of "monocular insolence" highly injurious to the prospects of peace. In other words, they consider the war a gigantic and unnecessary blunder which a more tactful diplomacy would have avoided. But that is the extent of their pro-Boer sympathies. They are under no illusions as to the real character of the Transvaal Government, and while admiring the sturdy courage of the Boers, are very far from wishing to see it prevail. In their view the British, fundamentally in the right, have put themselves, technically, in the wrong. They justify the

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object aimed at without approving of the means. They wish that a peaceful solution had been found—believe, indeed, that a peaceful solution could have been found—but, war having come, they range themselves unhesitatingly on the side of the higher civilization. They appreciate the fact that the ultimate defeat of the British would entail the loss of the whole of South Africa and with it the beginning of the end of the British Empire; and to avoid such a worldwide catastrophe, they are constrained, somewhat regretfully, to sacrifice the Boers on the altar of necessity.

Such, I believe, to be the views generally held with a few variations here and there, among the most intelligent people of the United States. I cannot help thinking also that they reflect in the main the great body of American opinion. There are some who carry their objections to the war further than others, who denounce it as a "gold hunters' conspiracy," and believe with Mr. Morley that it is simply the culmination of a sordid plot of English and foreign capitalists against the Transvaal and at the expense of Great Britain; and that England has been used as a mere pawn in a game of bulls and bears. There are others, too, who stigmatize it as "a war of conquest," or "lust for gold." But even among these I do not detect any desire for the triumph of Boer arms. I have met very few Americans who believed in Mr. Chamberlain's convenient theory that the war was "inevitable;" I have met a great many who have denounced it as a crime, and more still who have anathematized it as a blunder; but I have failed to come across any who would not agree to the proposition that it was better for the world at large that England should succeed. The sentiments of Americans may be pro-Boer, but their reason is pro-British.

There is, however, a clique composed of one or two Senators, and a large number of Irish and Dutch-Americans, backed up by a few "yellow" journals, which openly gloats over the reverses to British arms, and works mightily for the Boer cause. It is a noisy and demonstrative clique, and having some political influence, can get pro-Boer resolutions passed by municipalities and such like bodies. But it does not in any way represent the real feelings of Americans, and it has conspicuously failed to move the Administration from its position of strict neutrality. The collapse of its efforts and the generally temperate tone of even the most pronounced Boer newspapers are, I think, the best answer to the question raised at the

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beginning of this article as to the stability of the new régime of Anglo-American friendship. The struggle with the Transvaal has greatly moved the country. Almost from the first it killed the small interest still surviving in the Philippine war and quite overshadowed the currency debates in Congress. It became, in fact, the most prominent of American public questions, influencing politics and engaging the keenest attention of millions. Yet the discussion of it, both in and out of Congress, except among a discredited and dubious faction, has been on the whole courteous, well-informed and restrained—in singular contrast to the wild virulence of Continental critics. The Senate, which more than once was given an opportunity of expressing itself with pristine freedom, held its emotions in unwonted check. The State Department declined most significantly to be drawn into any action at which Great Britain could take umbrage, and its attitude was but the official reflection of the people's wishes. One has only to imagine the tornado of invective that would have whirled over the country had the Boer war broken out five years ago to gauge how far America has travelled from the point of view which made the Venezuelan outburst possible.

SYDNEY BROOKS.

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THE RESPONSIBILITY OF CECIL RHODES.

BY A BRITISH OFFICER.

[The following article is unsigned for obvious reasons; but it is from the pen of a well-known officer who has taken an active part in the war, and who undoubtedly expresses the views of his brother officers.—EDITOR.]

THAT the military situation in South Africa is one of exceptional gravity is incontestable. But that we are, therefore, justified in accepting all or any of the gloomy forebodings as to the outcome of the war is both absurd and an insult to the tenacity and determination of the Anglo-Saxon race.

There was a time in the great struggle for the American Union, when the immense armies of the North were headed and checked by the determined valor of the Southern States, aided by the difficulties of the country which formed the theatre of war. Nor were there then wanting critics who predicted the collapse of the Federal forces, and counselled the abandonment of the struggle and acquiescence in the dismemberment of the States. Fortunately for the American nation, and also for the civilized world, more courageous men directed her destinies, the unhappy strife was brought to a close, and a settlement effected honorable alike to both parties. Now that time has healed the wounds and softened the animosities of that terrible epoch in history, it seems incredible that the great and powerful branch of the Anglo-Saxon race who govern America could, at one time, have been in such deadly peril of dismemberment and disintegration.

It is the custom of races less robust in physique and more excitable in temperament than are the Anglo-Saxons to be unduly elated at any success which may be gained by their arms, and proportionately depressed and despondent at any reverse which may fall to them. Our neighbors across the Channel have ever been famous for the confidence and light-heartedness with which they embark in war, and the rapidity with which they fall into the

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depths of despondency when victory does not immediately attend their efforts. In such circumstances, they have ever found an unfailing solace in attributing all their bad luck to treachery. *"Nous sommes trahis"* has for years served as a consolatory explanation for disaster and defeat. The student of military history can hardly refrain from a smile when this oft-repeated reason is adduced for mismanagement or failure. Napoleon, in his ingenuous account of the defeat he sustained at Waterloo, lays the blame upon certain traitors, who at the precise instant when victory had declared for the French arms, raised cries of *"Sauve qui peut"* and others of similarly encouraging nature. In 1870, the aggressive shouts of *"à Berlin"* were rapidly supplanted by *"nous sommes trahis,"* when, in battle after battle, the superior strength, discipline and organization of the German hosts had become apparent to all the world.

It is well in these days for Englishmen to call to mind this unpleasant trait in their neighbor's character, which they profess to despise so heartily. For there is a risk that some of the more nervous and excitable members of the community may be led into similar ungraceful and unedifying demonstrations, with reference to our petty reverses in South Africa.

That traitors have been at work and have in no small degree assisted the enemy, either directly or indirectly, by misleading and misdirecting our military authorities, is indeed most probable. But that we should at once raise the refrain of "We are betrayed!" is both undignified and ridiculous. So far, the nation has received the news of our successive disappointments in a manner which has elicited the grudging praise of even the most bitterly hostile Continental journals. It would be well, therefore, that we should, in the face of any possible further check or disaster, remember that the eyes of the whole civilized world are upon us, and that it is the sacred duty as well as the inherited birthright of Britons to receive, unmoved, news either of defeat or of victory.

Nelson, writing to a military officer in 1801, bitterly animadverted as follows on the celebrations which marked the conclusion of peace with France in that year:

"I dislike all these childish rejoicings for peace. It is a good thing, I hope, but I would *burst* before I would let a d——d rascal of a Frenchman know *that either peace or war affected me with either joy or sorrow!* . . . D——n them all! is the constant prayer of your much obliged and affectionate friend, NELSON."

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Such is the true Anglo-Saxon spirit, and it were well if, in these days of mock sentiment and exaggerated censure and praise, we were to keep in mind the undaunted words of our great hero, and endeavor to follow them in practice.

Now, although we most sternly deprecate any attempt to make excuse for our own shortcomings and reverses by following the example of the French, no harm can accrue, and indeed much good may come, from a critical examination of some of the exterior forces which have undoubtedly influenced our military operations in South Africa.

For good or for evil, the most commanding figure in that region at the close of the nineteenth century is assuredly that of Cecil Rhodes. Never was there a man about whom such opposite views were held, and so strongly held. It is, of course, an enormous gain to him that his most bitter and irreconcilable enemies are the Boers. This of itself has been sufficient passport for him to obtain the suffrages of a vast number of the British public. Added to this is the undoubted fact that he has, of late, posed as the one loyal Minister and representative of the Imperial Power, as against the veiled disloyalty and dishonesty of the Afrikander party. In mentioning the latter, we purposely exclude the name of Schreiner, for it is still a disputed question at the Cape whether that individual is an honest fool, who has failed to appreciate the corruption and villainy of the members of the Bund who direct his movements, or a most accomplished, disloyal knave, who, under the veil of being a constitutional representative, is quietly doing his best to undermine and subvert British rule in South Africa.

It will thus be seen that Cecil Rhodes has an extraordinarily good start in the direction of general popularity; so good a start, indeed, that, unless there is something overwhelmingly to his disadvantage, of which the public is ignorant, it would seem hardly possible to oust him from the commanding position he has seized upon with such consummate assurance. His early indiscretion of subsidizing the disloyal party in Ireland to the tune of £10,000, although not forgotten, is one that has long since been forgiven, as are more egregious failures which leave no ill results behind.

The wearisome wrangle as to the amount of his complicity in the Raid is also a matter which it is not worth while here to revive. All men in touch with South Africa are well aware of how deeply he was involved in that miserable fiasco.

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The injury to British interests in South Africa caused by the Raid is enormous, and, as military men know bitterly to their cost, the price is now being paid in their own blood and in that of their heroic soldiers. For it was the Raid which rendered it possible for President Krüger to add to his already abnormally heavy armaments, and to openly import thousands of rifles and millions of cartridges, not to speak of ordnance and other war material, which could only be destined for use against the Suzerain Power; and this without a word of remonstrance from the latter.

But the indictment against Cecil Rhodes, and one which he will before long be called upon to answer before the tribunal of the whole civilized world, is of far graver import than one of subsidizing Irish rebels or of financing raiders. It is no less than that he, for reasons which are strongly suspected, if not already known and capable of proof, deliberately misled the British nation, so as to bring about the present war in South Africa for his own personal aggrandizement and the fulfillment of his ambitious schemes. Truly, a stupendous charge to bring against a man who has been, and may again be, the Prime Minister of the Colony which is now suffering so much from the effects of war.

All known circumstances, however, tend to prove that Cecil Rhodes has acted throughout in a manner which indicates that he not only concealed facts of vital importance, which were well within his knowledge, but that he, when occasion demanded it, wilfully and gratuitously made mis-statements of fact well calculated to mislead both the Government and the nation.

That he is an absolutely unscrupulous man may be accepted as proved by his cynical conduct in subsidizing the Irish disloyal party, and by his unblushing effrontery when his connection with the Raid was brought to light.

Taking the present charges in succession, the first in military parlance may be thus paraphrased: "In that he, knowing well the great extent of the armaments and preparations for an aggressive war against Great Britain being made by the South African Republic, wilfully misled the nation, by his solemn assurance of last summer that there would be no war."

That he was morally bound to tell the truth in this matter may be taken as granted, viewing his position and influence in Rhodesia and Cape Colony. That he should so calmly tell what he well knew was a falsehood is, therefore, unpardonable. True is it that

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the Transvaal had been preparing for war for years, and that its preparations were practically completed last summer. Hence, it may fairly be argued that nothing would have stopped it from declaring war, as it did upon the first favorable opportunity presenting itself.

Unfortunately for this argument, we are met by the fact that the mounted Boers require food for their horses, and that it is impossible for them to move in any numbers through their country during the winter and early spring months—from June to September—and until the spring rains cause the young grasses to grow.

The effect, therefore, of Cecil Rhodes's solemn assurance was to lull the natural anxiety aroused by the reports of Boer armaments and aggressive actions. No sooner had this difficulty of subsistence disappeared than the mask was thrown aside, and the Boer determination to fight plainly shown. Had Great Britain taken action in July or August, an adequate force could have been thrown into Natal before the Boers could have mustered in sufficient numbers to overwhelm that colony. Also even had they thus mustered, the Boers would have been unable to keep the field, owing to want of subsistence at that time of the year.

Thus it will be seen that the direct effects of Cecil Rhodes's concealment of the Boer preparations, of which he was surely cognizant, and of his repeated assurances that there would be no war, combined most disastrously to mislead a Government by no means too energetic in its guardianship of national interests; and also to soothe the awakening anxieties of the nation, which somehow began to realize at last that things were not going quite well in South Africa.

We now come to the second charge which Cecil Rhodes stands arraigned upon. When the war broke out, for reasons at present unknown, he proceeded to Kimberley. At first, nobody paid much attention to this, beyond being somewhat amused at the energy of the Boers in at once surrounding and laying siege to the town which contained their detested enemy. Had Rhodes been content to remain as one of the many civilians shut up there, nothing more would probably have been said. But this was precisely what he was unable to do. A man who has wielded such immense powers and has realized the advantages which great wealth confers, could not remain a passive spectator under such circumstances. Thus,

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before long we find him interfering, and interfering disastrously, as we shall prove, with the general conduct of the war.

To follow what we now propose to describe, it is first necessary that the general plan of campaign, as arranged for the expedition, should be understood. It was assumed, erroneously, as facts have turned out, that Sir George White, with his Natal field force of some 12,000 men, would be able to keep the invaders of the Transvaal at bay. That he could have done so, had he elected to hold the line of the Tugela, is, of course, open to discussion. Such, however, was the original idea, which, of course, must be considered in conjunction with the general scheme. This latter was to assemble an army corps and a cavalry division in Cape Colony, and to advance on Bloemfontein and through the Orange Free State on Pretoria. It was reckoned, and with good reason, that any such advance would quickly have the effect of reducing the pressure on White in Natal, since the bulk of the Transvaal and Free State forces would most certainly be withdrawn to oppose a British advance through the heart of the Orange Free State. It would also, of course, have drawn off the Boer commandoes besieging Kimberley.

Such, briefly, was the plan of campaign when Sir Redvers Buller landed at Cape Town on the 1st of November. But, during the seventeen days he had been at sea, the military situation had entirely changed. He now learned that the Boers had invaded Natal in overwhelming numbers, and that White had, after three battles in which he had worsted the enemy, been compelled to fall back on Ladysmith. He further heard how, owing to the unfortunate interference of the Civil Governor of Natal, all the munitions and stores had been collected at Ladysmith, thus obliging White to hold on to that town in place of retiring to the Tugela. To the north, Mafeking and Kimberley were beset and cut off; while many Boers were collecting along the Orange River and a commando had actually invaded the colony and advanced on Colesburg. Added to this was the unpleasant news that a vast number of the colonists were thoroughly disloyal, and anxiously awaiting a Boer success to take up arms against the colony! The troops available to withstand the impending Boer invasion were a small force of all arms at the Orange River Bridge, the remainder of the passages on that river being only held by the Colonial Police Force. At De Aar, an important junction, there were a few infantry and guns; while at

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Stormberg and Naauwpoort, two railway junctions which commanded the line of advance on Bloemfontein, there was only a Naval Brigade and a detachment of infantry. Scattered here and there along over a thousand miles of railway were small parties of colonial volunteers, posted with a view to terrorizing the known disaffected colonial population. Truly an imposing force with which to keep the Boers, armed to the teeth, at bay!

Far away in England, some 6,000 miles distant, the famous Army Corps and Cavalry Division were being mobilized and put on board ship; a portion had indeed already been embarked and was somewhere near Madeira—not near enough to be of immediate use, unfortunately.

Buller must have seen at a glance the highly critical state of affairs in Natal; with White shut up in Ladysmith there was practically nothing to prevent the Boer invaders from sweeping the small forces at Maritzburg into the sea. Hence, he was compelled to direct every available battalion and battery as it arrived at Cape Town to Durban, thus, of course, diverting the stream of reinforcements from the true line of advance on Bloemfontein. On one point he was firm, namely, that the defence of Mafeking and Kimberley must be left to the local troops.

With a view to the general advance through the Free State, it was deemed advisable to collect a large depôt of supplies on the Orange River at the bridge of that name. This point afforded protection to the left flank of the advance, and if necessary would enable a flanking column to move on Kimberley or Bloemfontein, as might be considered desirable.

Things seemed to be going on fairly well. Strong reinforcements were pushed on to Natal, and a division under Lord Methuen assembled at De Aar, which was designed to advance to the Orange River at Norval's Pont.

It had been the custom, since the investment of Kimberley by the Boers, to keep up communications with the beleaguered garrison by men who knew the country well, and who were willing to risk the perils of breaking through the Boer lines for a consideration.

About the middle of November, when Kimberley had been invested for less than a month, one of these men succeeded in evading the Boer scouts and brought in a budget of news from Kimberley. He carried despatches for the military authorities, and also

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for the Governor of Cape Colony and other high officials. The substance of these has since leaked out. For, while the military chief in Kimberley reported the situation as secure, Mr. Cecil Rhodes demanded the immediate despatch of a relief column to Kimberley before the end of the month.

Of course, it is impossible to say precisely what and whose influence were brought to bear; but the remarkable fact remains that Buller, despite his notorious objection and opposition to the despatch of any force for the relief of Kimberley, now suddenly ordered Methuen's division to advance to that town, thereby abandoning the original plan of operations for an indefinite period.

It was an open secret in the colony that Cecil Rhodes had thus forced Buller's hand, and against the latter's better judgment. As a proof of Buller's objection to this diversion of the nucleus of his fighting force from the true line of advance, it was well understood that its precise mission was to proceed to Kimberley and relieve that city, after which it was to return at once down the line to De Aar, and thus regain its position on the general line of advance into the Orange Free State.

All who have followed the movements of troops during the recent operations cannot have failed to remark on the repeated instances in which Buller has, as on this occasion, denuded his center and uncovered his line of advance by sending reinforcements to Natal and the Western Border. Excuses for the former may possibly be found, although we are of opinion that it would have been far sounder strategy to have merely sent *sufficient* troops to hold the line of the Tugela and protect the southern portion of the colony. Such an arrangement would have given Buller by this time an overwhelming force with which to advance on Bloemfontein.

But with regard to the latter, no such plea can be urged. It was obvious to all military men from the first that the correct way to secure the relief of Kimberley was by the occupation of Bloemfontein, and that any divergence of troops to that remote and unimportant part of the theatre of war involved a most dangerous splitting up of the British forces.

The truth of these criticisms is unfortunately borne out by the present condition of affairs. We see Buller twice roughly repulsed in his endeavor to break through the vast natural fortresses on the line of the Tugela. Methuen, on the other side, is headed and

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checked full twenty miles short of his goal—Kimberley; whereas, in the center, the remaining forces are, at the time we write, only sufficient to keep the invading Boers, backed by the rebellious colonists, in check.

Reverting to our indictment of Cecil Rhodes, we maintain that the main cause of the present unfortunate deadlock in South Africa is directly attributable to his unwarrantable interference in the strategy of the campaign, resulting in the misdirection of Methuen's force, and the consequent breaking up of the army which ere now would have been operating on its proper line of advance with telling effect.

This is said in no spirit of desire to shift the responsibility from the military chiefs, upon whose shoulders the blame must inevitably fall. But it is well that the world, in criticising the campaign in South Africa and its, so far, abortive results, should not lose sight of the baleful influence which first misled the British public as regards the probabilities of war, and thus gave the Boers time to complete their arrangements for the invasion of our colonies; and, secondly, induced our military authorities to abandon the only sound plan of campaign for an indefinite period, and to hopelessly break up and disintegrate our forces at one of the most critical periods of our history.

A BRITISH OFFICER.

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THE PROPOSED HAY-PAUNCEFOTE TREATY.

BY MAYO W. HAZELTINE.

OUGHT the Senate of the United States to ratify the convention into which Secretary Hay and the British Ambassador at Washington have entered, and which, according to the admission of our State Department, reaffirms, where it does not supersede, the Clayton-Bulwer Treaty? In order to answer the question, we should recall distinctly the situation which existed before the new convention was signed; the views of the Clayton-Bulwer Treaty which have been expressed by eminent American statesmen during the last twenty years, and the effect which the provisions of the convention, if ratified, would have on the expediency of permitting the American isthmus to be cut by a canal. We may say at the outset that, if the projected artificial waterway is to be open in time of war to the battleships of a public enemy of the United States, the American people will never suffer the rampart which Nature herself has erected for the protection of our Pacific States to be demolished; much less will they commit an act of suicide by demolishing that natural rampart at their own expense. We say, further, that, if it shall appear that through the ratification of the new convention, the neutralization of an American canal, even in times of peace, is to be upheld, not solely by the guaranty of the United States and of the Central American Republic, or Republics, directly concerned, but also by the guaranty of European Powers, it would become the duty of the House of Representatives, adhering, for its part, to the Monroe Doctrine, to nullify the Hay-Pauncefote Treaty, by refusing to make any appropriations under it, and by thus renouncing, for the present, the hope of an interoceanic canal. As yet, happily, we are not reduced to that desperate expedient. Three other courses are still open to us: First, the President may withdraw the new treaty for

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amendment; second, the Senate may refuse to ratify the Hay-Pauncefote Treaty; third, before the document comes up for consideration in that body, Congress may enact canal legislation totally inconsistent with its provisions and based on the assumption that the Clayton-Bulwer Treaty is obsolete and no longer binding.

I.

Up to February 5, 1900, when Secretary Hay saw fit to enter into the new convention on the subject with the British Ambassador at Washington, the international situation, with regard to a canal across the American isthmus, had been this. The British Government was supposed to hold that the Clayton-Bulwer Treaty, although never acted on since it was concluded in 1850, was still obligatory on the United States, and entitled England to exercise jointly with ourselves a control over any interoceanic waterway, even although this should be constructed at our own expense. It had been long recognized, however, on both sides of the Atlantic that, by insisting upon the letter of the rights given to her by the Clayton-Bulwer Treaty, England would pursue a dog-in-the-manger policy, for, hampered by the provisions of that agreement, the United States would never consent to build a canal. Acknowledging the futility of such a policy, and perceiving that England would have much to gain, even if she were restricted to the use of a canal in peace times and were shut out from it in the event of war with the United States, the London *Spectator* and other authentic representatives of British public opinion, have lately advocated the total annulment of the Clayton-Bulwer Treaty. When we call to mind that England in 1871, although she had nothing to gain by it, consented, at Russia's demand, to the annulment of the clause in the Treaty of Paris prescribing the neutralization of the Black Sea, which was the principal outcome of the Crimean War, we cannot doubt that, in the existing circumstances, a request for the abrogation of the Clayton-Bulwer Treaty, if earnestly pressed by our State Department, would have been granted by Great Britain. Besides the consideration of the immense commercial profit derivable by England from a canal, even though this should be exclusively controlled by the United States, Lord Salisbury would not unreasonably have been moved by the reflection that it might be judicious to acquiesce gracefully in a transaction which the American people, apparently, were de-

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termined to carry out. There is only one courteous and friendly mode of terminating a treaty, but it can be rendered practically void in several ways, although recourse to any of these would have to be made at our own risk. We could inform the British Foreign Office through our State Department that, although the Clayton-Bulwer Treaty is, on its face, of perpetual obligation, and contains no denunciation clause, we should, nevertheless, decline to consider ourselves bound by it any longer. Again, a treaty may be invalidated through a second treaty concluded between one of the signatories and an outside Power. The treaty which we made with France during our Revolutionary War was rendered practically worthless when we made the Jay Treaty with Great Britain. Such would be the effect upon the Clayton-Bulwer Treaty, if provisions totally inconsistent with it were to be inserted by us in a treaty concluded between the United States and the Republic of Nicaragua, or by the admission of the last-named commonwealth into our Union. In the third place, a treaty may be abrogated by legislative acts incompatible with its conditions. Congress may pass a bill providing that a canal shall be constructed across the American isthmus at the cost of the United States; that it shall be fortified and controlled exclusively by the United States and Nicaragua, and that, in the event of war, it shall be closed to the ships of the public enemy of either of those Powers. Such a law would be manifestly irreconcilable with the Clayton-Bulwer Treaty, and would be, practically, tantamount to a repudiation of that instrument. The British Government, however, would have no moral right to regard such a repudiation as an affront, if, on repeated occasions, our State Department had courteously but vainly requested it to assent to an abrogation or drastic modification of the Clayton-Bulwer Treaty.

II.

Now, for twenty years, the most respected and trusted of American statesmen, including distinguished Secretaries of State, have advocated the annulment of the Clayton-Bulwer Treaty, or such trenchant changes in it as should permit the United States to fortify the waterway and to close it against their public enemy in time of war. The views held by the Hon. W. M. Evarts, Secretary of State in the Hayes Administration, were unmistakably expressed in a message transmitted to the Senate by President

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Hayes on March 9, 1880. The message pointed out that the policy of this country is a canal under American control, and that, if existing treaties stand in the way thereof, negotiations should be entered into to establish the American policy. It was further averred that the capital invested in the enterprise must look for protection to one or more of the great Powers of the world, but that no European Power could be allowed to intervene for such protection. The United States, said the message, "must exercise such control as would enable this country to protect its national interests." Again: Such a canal would be virtually "a part of the coast line of the United States," and its relations to this country would be "matters of paramount concern to the people of the United States. No other great Power would, under similar circumstances, fail to assert a rightful control over a work so closely and vitally affecting its interests and welfare."

Very soon after President Garfield's inauguration, Mr. Blaine set forth the grounds of his conviction that the Clayton-Bulwer Treaty needed to be abrogated or materially changed. He did not assert that the treaty was already void, either by lapse of time or change of circumstances, or by any positive act of Great Britain, but he evidently believed that these and other considerations rendered the total or partial abrogation of the treaty by mutual consent or by our own act indispensable. He adopted the courteous course of proposing to the British Government that the treaty should be changed by mutual agreement, and, naturally, refrained from saying that, in the event of a refusal, the treaty might be practically nullified by an Act of Congress inconsistent with it. In a letter dated November 10, 1881, and addressed to Mr. Lowell, our Minister in London, Mr. Blaine pointed out that the Clayton-Bulwer convention had been made many years before under conditions which "were temporary in their nature, and can never be reproduced." He also recalled the fact that one of the motives which induced our Government to assent to the Clayton-Bulwer Treaty was the expected aid of British capital, an expectation which had not been realized and had long ceased to be entertained, the resources of our own Government and people being amply sufficient for constructive purposes. Mr. Blaine proceeded to insist that Great Britain could not reasonably object to the demand of the United States that they should have the right to fortify the canal cut through the American isthmus and to close

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it against a public enemy in time of war. He made it plain that "the operation of the Clayton-Bulwer Treaty would practically concede to Great Britain the control of whatever canal should be constructed," because it is incumbent upon Great Britain with its extended colonial possessions to maintain a naval establishment vastly superior to that required by any other Power. Hence, if the United States should bind itself not to fortify on land, Great Britain would have an advantage which would prove decisive in the possible case of struggle for the control of the canal. Finally, Mr. Blaine declared that our Government would not consent to perpetuate any treaty that, by conceding to European States a right of joint guaranty of an American canal, "impeached our rightful and long-established claim to priority on the American continent." The United States, he said, were resolved to defend their interests precisely as Great Britain defends hers. It would be as reasonable, he asserted, for the United States to demand a share in the fortifications by which Great Britain excludes all other Powers from the waters of the Red Sea, and thus virtually controls the Suez Canal, or to demand their neutralization, as for England to make the same demand in perpetuity from the United States with respect to the transit across the American Continent. Here we should note that, as a glance at the map will demonstrate, the geographical and strategic parallelism assumed by the Hay Pauncefote convention to exist between the Suez and Nicaragua canals, does not exist in fact. It could only exist, if we controlled the Caribbean, as England controls the Red Sea. The pretended neutralization of the Suez Canal is farcical, because the southern neck of the Red Sea, the natural continuation of the Suez Canal, is absolutely controlled by England. In a previous letter to Mr. Lowell, dated June 24, 1881, Mr. Blaine had repelled with vehemence the notion of subjecting an American canal to a joint guaranty of European Governments. An agreement, he said, between the Powers of Europe jointly to guarantee the neutrality, and thus, in effect, control the political character of the canal would be viewed by this Government with the gravest concern. And again: "The United States have never offered to take part in agreements in which European Powers have united, such as guarantees of the neutralization of certain European countries; and it is the long-settled conviction of this Government that any extension to our shores of the political system of Europe would be

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attended with danger to the peace and welfare of this nation." Lord Granville, who, at the time, was Secretary for Foreign Affairs, replied to the letters addressed by Mr. Blaine to Mr. Lowell, and declined to modify the Clayton-Bulwer Treaty in the particulars just mentioned.

Mr. Frelinghuysen, who succeeded Mr. Blaine as Secretary of State, wrote to Mr. Lowell on May 8, 1882, a letter to the following effect: He declared that the only species of control over an artificial waterway cut through the American isthmus to which the United States could assent would be a control exercised exclusively by them and by the Central American Republic orRepublics, the territory of which might be traversed by the canal. A protectorate, or joint guaranty, or joint control—in practice, the words would prove synonymous—by European nations would run directly counter to the Monroe Doctrine to which the American people are unshakably committed. Mr. Frelinghuysen went on to point out that Great Britain, by erecting during our Civil War the woodcutters' settlement, possessing no right of sovereignty, into the Crown Colony of British Honduras, had violated a fundamental condition of the Clayton-Bulwer Treaty, and had thus rendered the treaty voidable at the pleasure of the United States. Lord Granville, in reply, refused to admit that the treaty was voidable at the option of the United States, but the position taken by our Government was reaffirmed by Mr. Frelinghuysen in letters to Mr. Lowell, dated May 5, 1883, and November 22 of the same year. We should here add that Mr. Cleveland, though he did not reassert Mr. Frelinghuysen's views with regard to the voidability of the Clayton-Bulwer Treaty, but seems to have accepted the convention as obligatory in the absence of any executive or legislative act upon our part tantamount to an abrogation of it, never denied that the document would require material alteration, should the United States undertake to construct an interoceanic waterway. The course which Mr. Cleveland pursued in regard to the Venezuela boundary dispute furnished a conclusive proof of his resolve to uphold the Monroe Doctrine, and he must have been aware that the only pronounced departure from that doctrine ever made by the American Executive and by the United States Senate was embodied in the Clayton-Bulwer Treaty. There is, indeed, no doubt that Mr. Clayton deliberately meant, in negotiating the Convention of 1850, to disregard the Monroe Doctrine as in any

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sense obligatory. This he did not shrink from avowing when, on becoming a member of the United States Senate only a few years later, he was drawn into a bitter discussion with General Cass, of Michigan, as to the meaning of the treaty, and as to the intentions of the contracting parties. Although, therefore, it cannot be denied that, in the Clayton-Bulwer Treaty, our Executive and our Federal Senate did abjure allegiance to the Monroe Doctrine, it has been ever since maintained by American statesmen, and conspicuously by Mr. Cleveland in the Venezuela controversy, that the Monroe Doctrine still represents the inflexible policy of our Government, and that a single departure from it in 1850 cannot be construed as a renunciation thereof.

III.

Such was the international situation with regard to an American isthmus canal in the month of January in the current year, the month preceding the provisional conclusion of the Hay-Pauncefote Treaty on February 5, 1900. Three Secretaries of State had protested against the perpetuity of the Clayton-Bulwer Treaty in its original form. Secretary Evarts had insisted that the canal must be built and operated under the exclusive control of the United States and of the Central American country through the territory of which the waterway should pass. Secretary Blaine had taken the same ground, and maintained that no canal should be built, if any European Power were to share in the control thereof; further contending that, in order to make our assumption of control effective, we should claim the right to rear fortifications. Secretary Frelinghuysen made the same declaration of principles, and asserted that we might make them immediately operative, the Clayton-Bulwer Treaty having been violated by Great Britain in a vital condition, and thus rendered voidable at our option. It is true that, during the years 1880-83, when these declarations were made, Great Britain had shown itself unwilling either to abrogate the Clayton-Bulwer Treaty or so to modify it as to repel European control and give the United States the right to exclude the battleships of a public enemy from the canal in time of war. During the ensuing seventeen years, however, a signal change had taken place in British public opinion. It had come to be widely recognized by the beginning of 1900 that the Clayton-Bulwer Treaty was an obstruction to interoceanic communication,

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and that the great commercial benefits derivable by England in times of peace from a canal traversing the American isthmus ought not to be sacrificed, or even postponed, on account of the reasonable reluctance expressed by the United States to place the artificial waterway under the guaranty of a European syndicate, or to open it to British warships in the regrettable and improbable, but at least possible, event of a war between the United States and England. Simultaneously with this notorious change in British public opinion both Houses of Congress, which constitutes the dominant branch of our Federal Government, had given unmistakable signs of a determination to cut without further delay a canal through the American isthmus; to operate it under the exclusive control of the United States; to repel the idea of a British or European guaranty and, while opening the waterway under liberal and equal conditions to the mercantile marines and the navies of all nations, to reserve, nevertheless, the right, inseparable from the duty of self-preservation, to close the canal against the battleships of any Power with which our Government should happen to be at war.

Under the circumstances, it was imperative upon Secretary Hay to point out to the British Foreign Office that the virtual abrogation of the Treaty by a legislative act of Congress was imminent; that, by a timely precaution, he desired to avert what might be deemed an affront, and that he would most earnestly request an immediate modification of the Clayton-Bulwer Treaty on the lines proposed by Mr. Blaine, lines which would place the projected interoceanic canal under the sole control of the United States, and which, while welcoming thither the commerce of the world in times of peace, would assert the right to close the waterway against our public enemies. That was the request it behooved Mr. Hay to make and to press. Nor have we reason to suppose that such a request, properly presented, and firmly urged, would have been rejected by the British Foreign Office. It is, indeed, incredible that the British Government, in its present situation, would not prefer to "save its face," as it did with regard to the neutralization of the Black Sea in 1871, by acquiescing in a drastic amendment of the Clayton-Bulwer Treaty, rather than see it torn to atoms by an act of the American Congress. No such request, however, was made. The State Department, for which Mr. Hay is personally, and President McKinley vicariously, responsible, has

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had the amazing fatuity to announce that the Hay-Pauncefote convention is due exclusively to its own initiative; that not a line nor a word in it should be imputed to pressure from a British source.

What, then, is this convention, the authorship of which is claimed with pride? It is a convention which makes absolutely no concessions to the United States except the futile one of building, operating, repairing and policing the canal at its own expense, while it revives all the obnoxious provisions of the Clayton-Bulwer Treaty, placing the canal under the guaranty of a European syndicate, prescribing for it the rules applied to the Suez Canal, denying to the United States the right to fortify its own structure, and compelling us, under the penalty of coercion at the hands of United Europe, to permit in war-time the battleships of a public enemy to traverse the interoceanic waterway for the purpose of assailing our Pacific States.

It is a Trojan Horse that Great Britain, speaking through the mouth of Mr. Hay, has offered us in the Hay-Pauncefote convention; a treaty which invites us to level at our own cost the mountain rampart which Nature has interposed between our Pacific States and European aggression. By ratifying this astounding convention, we should place the cities on our Pacific coast at the mercy of any European Power possessing a stronger navy than our own. We should also deal, by implication, a deadly blow at the Monroe Doctrine, for, if we recognize to-day the right of European nations to guarantee jointly the neutralization of an American canal, with what force of logic could we deny hereafter their right to extend their power of political regulation over any part of Latin America?

There are four ways of dealing with the Hay-Pauncefote convention, and one of these must be adopted, unless the American people are to be made the victims of a wrong, the dire proportions of which will become patent in the twentieth century. If President McKinley desires to absolve himself and his party from the responsibility for this monstrous blunder, he will forthwith recall the Hay-Pauncefote convention for amendment. If this he neglects to do, the Senators may clear their own skirts of responsibility by refusing to ratify the document. Thirdly, the Senate may suspend consideration of the convention and indirectly kill both that and the Clayton-Bulwer Treaty by com-

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bining with the House of Representatives to enact into law one of the two Nicaragua Canal bills which are now pending in Congress, and which are irreconcilable with the Clayton-Bulwer Treaty or its supplement. Or, finally, if the President and the Senate, which seems incredible, should both prove recreant to duty, the House of Representatives can still safeguard the interests of the United States and of the American Continent by refusing to appropriate a dollar for the construction of a canal under conditions subversive of the Monroe Doctrine, and of the power given us by Nature to protect our Pacific States from assault by European naval Powers. Better, far better, would it prove in the future, for the United States, and for the smaller commonwealths, of whose independence we are the guardians, that the American isthmus should be pierced never by the hand of man, than that we should be prohibited from closing a canal constructed and operated at our own expense against the warships of a public enemy.

MAYO W. HAZELTINE.

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WE ARE TOO MUCH GOVERNED.

BY DAVID B. HILL, FORMERLY UNITED STATES SENATOR FOR NEW YORK.

I AM asked to express my views of the tendency—said to be increasing—on the part of the Legislatures of the various States of the Union in the direction of multiplying legislation.

That such tendency now exists in a large degree, even if not to a greater extent than ever before in our history, is evidenced by the fact that, as appears by the State Library Bulletin for January, 1900, published under the auspices of the University of the State of New York, there were enacted in the United States during the year 1899 by our State Legislatures the enormous number of 4,834 separate and distinct enactments known as "general laws;" while I find upon investigation that there were passed during the same period (including those passed by a few States which held their bi-ennial sessions in 1898) in addition thereto "local, special or private" laws to the number of 9,325, making a grand total of 14,159 laws enacted in the United States, exclusive of Congressional and Territorial legislation. They embrace almost every conceivable subject, from the commendable purpose of the protection of the life and liberty of the citizen to the unnecessary regulation of the wearing of hats at places of indoor amusement, and the ridiculous designation of a "State flower."

It appears that New York has contributed its full quota to this mass of good, bad and indifferent legislation, having in 1899 added 741 laws to swell the grand total, which, however, was an improvement on the record of the preceding four years, wherein had been passed 3,516 laws, the year 1895 alone witnessing the enactment of 1,045 statutes, being the largest number ever enacted in any one year since the organization of the State Government.

The admonition of the Scriptures, "Of making many books

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there is no end," may well be applied to the volumes of our session laws.

The contemplation of this astonishing activity in the making of laws naturally leads the thoughtful student of public affairs to inquire whether there is any real necessity for so much regulation of human conduct, and such constant interference with the business concerns of the people.

For every unnecessary statute which is enacted is an unreasonable imposition upon the citizen, who must not only examine it, but endeavor to understand its nature and effect, not merely for his own protection, but, if for no other purpose, for the very laudable desire of verifying that time-honored or moss-covered maxim of jurisprudence that "Every man is presumed to know the law," however unfounded and troublesome that presumption may oftentimes be.

It may well be questioned whether a State has the moral right to compel a citizen, in order to prevent his becoming, unwittingly or involuntarily, a civil or criminal wrong-doer, to annually undertake the laborious task of reading through huge volumes of session laws, at much expenditure of time and effort, that he may understand the laws of his own commonwealth and with reasonable certainty remain a law-abiding member of the community.

There seems to be a mania on the part of modern legislators to pass as many bills as possible during each session, probably indulging in the delusion that their zeal for their constituencies will be appreciated in proportion to the number of measures which they secure. There was never a greater mistake. I recall an instance several years ago where a member of Assembly, who, although representing a small county containing only about fifty thousand inhabitants, had secured the enactment of some nineteen local measures, at the close of the legislative session congratulated himself on his success, and unmindful of the dangers incurred by such undue zeal, stoutly predicted his sure return the next year by a grateful constituency, but who signally failed of re-election, owing to the complications occasioned by the very numerous measures which he had procured.

While the large number of laws which a representative secures may be an indication of great industry, it is not of itself any evidence of wisdom on his part any more than it is of the value and benefit to anybody of the measures themselves.

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The Common Council of an interior city in New York once passed a resolution which after reciting the number of arrests that had been made by a certain policeman during the preceding year, which happened to be greater than those made by any other member of the force, formally thanked him for his services, as well as commended him as the "best" policeman, although there was no evidence of the outcome of such arrests, the necessity or propriety thereof, or any other circumstances attending them. The Council apparently labored under the erroneous impression that in a multitude of arrests there is safety, and that the number and not the quality or circumstances thereof should count or control in estimating the efficiency and value of a policeman.

The constituency of such a Council would doubtless appreciate the services of their legislative representative in proportion to the number of local bills which he might be instrumental in placing on the statute books.

It is to be regretted that there are not more legislators possessed of the courage sufficient to refuse requests for the introduction of measures of doubtful necessity; but the unvarnished truth is that too many members seem eager and anxious to introduce some measure—it matters little what it is—in order that it may not be said that they lack the requisite influence to procure the enactment of a single law during an entire session. We are sure, however, that the representative who cannot place a single statute to his credit will, on the other hand, have none to discredit him, and we are not so sure but what he confers upon his commonwealth a more lasting benefit than the officious law-maker who passes a dozen laws of doubtful expediency.

And while we may not agree with Montaigne, who once said, "I am further of opinion that it would be better for us to have no laws at all, than to have them in so prodigious numbers as we have," yet we must respect the sentiment which impelled so emphatic, even if so exaggerated, a protest against the prevailing disposition to multiply laws for the government of intelligent people.

Legislation breeds legislation. The more laws we have, the more we are apt to think we need. The first forty days of a legislative session ordinarily witness the accomplishment of little, because there is really little which needs to be done; and if the regular appropriation bills for the support of the Government were

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ready for passage, the final adjournment might speedily follow without detriment to the State, even if not to its positive advantage. But usually the longer a Legislature continues in session imaginary needs for relief naturally arise or are created, one measure begets another, the introduction of bills becomes contagious and soon the flood gates of legislation are opened up, the legislative mills begin to grind, corporate and private greed becomes aroused and participates in the struggle for legislative favors—with the final result that hundreds of measures are ultimately passed, most of which were never contemplated at the outset, and two-thirds of which are either unnecessary, wholly or partially bad, or without substantial merit.

An idle man is bad enough, but an idle body of men is worse, and an idle Legislature, like an idle man, is usually mischievous, if not positively dangerous, and when the actual needs of a State in the direction of desirable legislation are comparatively few, the opportunities afforded in a long session for vicious, corrupt and improper legislation are much increased—and therein lies the danger to the State.

It may be safely asserted that it is not true that the interests of the people of the several States really require such a mass of legislation as is annually or bi-ennially foisted upon them by their respective Legislatures.

It may be asked, "What is a *Legislature* for, unless it be to *legislate?*" The answer is plain. A Legislature is given the power of legislation to subserve the best interests of the people—to meet their actual needs—to perform its proper functions as a part of the machinery of the State Government, but only whenever necessary. The legislative machinery, however, is not to be operated continuously. A legislative body is not to legislate simply for the mere sake of legislating. The power of legislation is not a mere toy to be constantly played with; but it is a high prerogative to be exercised only when occasion imperatively requires. A physician is licensed by the State to practice medicine, but unless necessity absolutely requires, it is not his province to dose his patients with medicines, although they may clamor for them. It is as much the duty of a conscientious lawyer to keep his client out of litigation as it is to protect him when he has unfortunately been drawn into it. Water is excellent to quench thirst, but too much of it impairs one's digestion. There can be too much even of a good thing.

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The point to these homely illustrations is apparent. Legislation is being carried to excess in this country, and excesses in the body politic are equally as dangerous as excesses in anything else.

It is to be feared that the people are becoming accustomed to look to legislative bodies for relief from all of their grievances, real or imaginary, the most of which are remediless because they are largely incidental to a free government which was not intended by its founders to be paternal in its character.

It is a serious mistake to teach the doctrine that the State must support its citizens, must provide them with work, must regulate what they shall eat, drink and wear, and otherwise control their customs, recreations and privileges through and by means of the authority of legislative enactments.

Legislation needs to be restricted within reasonable bounds either by constitutional limitations or through the influence of an intelligent public sentiment which sometimes is more effectual than law. Otherwise it is apt to run wild—to overleap the bounds of prudence and safety—to oppress, injure and annoy the citizen. It is capable of being a mighty weapon for good or evil, for the protection or the destruction of the community. Its danger lies in its very power.

Its constant use leads to serious abuses. Unscrupulous partisanship seizes it to secure and maintain political ascendency through unjust apportionment measures, unfair election laws, the arbitrary removal of political opponents by statute, providing long terms of office for partisan favorites, and amending municipal charters one way for political friends and another way for political opponents without regard to decency, consistency or right.

Partisanship in legislation seems to have run mad in Kentucky when that State tolerates an election system which centralizes and vests in the Governor (or in officials selected by him) the appointment of all the local election officials throughout that State, regardless of the democratic principle of home rule, and which permits a popular body like the Legislature to canvass the election returns and to reject at its virtual discretion the votes of any county in the State, and declare whichever candidate it pleases to be elected, with no power in the courts to review its proceedings, to correct its errors or to regulate its action in accordance with well-established legal principles.

That over-legislation constitutes a positive evil must be readily

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admitted. If there were some excuse for such excessive activity, if the majority of the enactments while although not strictly necessary were at least inoffensive and non-meddlesome in their character, the mere quantity thereof might not be regarded as specially objectionable. But when it becomes apparent that legislators have acquired the pernicious habit of excessive activity, devising and enacting measures simply to occupy the time during which they are expected to be at their respective State capitols—resulting in an enormous number of measures of no substantial benefit to the community, many of them petty and ridiculous in their purposes, or dangerous in their invasion of the liberties of the people, or special, local and private in their nature, with few general laws of practical utility and widespread importance—then the conviction becomes irresistible that the wise and beneficent purposes of legislation as contemplated by the framers of our various constitutions have become largely perverted to the serious detriment of the State. We may well recall the solemn warning of Tacitus, "When the State is most corrupt, then the laws are most multiplied."

The inordinate desire to legislate manifests itself not only in new and wholly experimental legislation, but in the constant amendment of old and existing statutes.

These unnecessary changes are apt to undermine our respect for law. A fickle man is always distrusted, and public confidence is soon destroyed in an unstable statute.

It is desirable, even if not essential, that laws should be permanent—fixed—certain; rather than transient—temporary—and constantly tampered with. Otherwise how are the people to become accustomed to them, how are they to understand and obey them? A State has no moral right to exact obedience to its legislative commands if they are as varying and numerous as the waves of the ocean.

It is not believed that the evil of undue legislation is one that is necessarily incidental to our political institutions, and therefore unavoidable. It may be largely, even if not entirely or effectually, corrected in many ways which can be suggested.

Of course, under our free institutions, where the people govern themselves through their chosen representatives, some discretion as to the number and nature of legislative enactments must be permitted to repose in our law-making bodies.

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It would be unwise to attempt to unnecessarily, much less unreasonably, restrict them even if it were practicable. Their sovereignty must be recognized and respected, although the frequency of its abuse or misuse severely tests the general confidence in the perfection of this portion of our governmental system. But it is "The Only Way," because no better repository for the exercise of legislative power than a popular body chosen by and of the people has yet been devised, and with all its shortcomings it must be admitted that it has accomplished wonders for humanity, liberty and progress.

It should be observed in passing that the evils of questionable legislation are more to be apprehended from State Legislatures than from Congress, owing to the difference in the extent of their authority.

Intelligent readers do not need to be informed that Congress can only exercise such powers, legislative and otherwise, as are conferred upon it in the Federal Constitution, while the powers of State Legislatures are unlimited except wherein they are restrained in their own State Constitutions or are prohibited in the Constitution of the United States. This distinction is most important. When our States can legislate on any subject and in any direction except that from which they are expressly restrained and prohibited, the opportunities for experimental and visionary legislation are practically as extensive as the open sea.

But it is asked, What are the remedies suggested for these prevailing and unsatisfactory conditions?

Let me specify and to some extent amplify them.

(1.) The creation of an intelligent public sentiment, always a powerful factor in the determination of public questions, which shall insist that the volume of legislation shall be steadily reduced within reasonable limits. Let law-making bodies be given to understand that they incur the displeasure, instead of the gratitude, of the people for the meddlesome industry which characterizes the numerousness of the enactments inflicted upon the community. Of course, there will be opposition to such a sentiment: it is inevitable. Every corruptionist, every lobbyist, every public legislative printer, every "striker," every promoter or "hanger-on" around legislative halls, and every schemer whose "business" interests might be injuriously affected, will be united, as they always have been, in resisting any diminution in the extent of legislative

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favors to which they have unfortunately been accustomed: but right-thinking people who have no special axes to grind and no selfish interests to promote, and are actuated solely by their concern for the general public welfare, will cordially welcome any concerted effort to secure reform in the direction indicated. It may reasonably be anticipated that the usual obstacles will be interposed, and that the same threadbare arguments will be presented which have always been put forth, to wit: that we are a growing country and that our new, increasing and varied business interests require much more legislative regulation and interposition than formerly. It is a plea easily made and as easily refuted. The existing statutes in nearly all the States are largely sufficient to meet the demands of all our genuine business interests; in fact, those interests would be better prospered by being let alone. Permanence is the desirable and essential feature in such matters. Nothing is so detrimental to every kind of legitimate business as uncertainty; and fluctuating laws are more demoralizing than fluctuating markets.

(2.) General laws should be enacted instead of special laws, wherever practicable. The evils which pertain to over-legislation may largely be attributed to special legislation, which constitutes the bulk of our undesirable enactments. It is in this field where favoritism is dispensed, where general laws are ignored or evaded, where corruption usually accomplishes its purposes, and where objectionable private schemes of every sort find their expression. Whatever questionable pension legislation has been enacted by Congress has been through special bills providing for some particular person to the exclusion of others equally or more deserving, while little criticism has ever been offered to general pension laws providing equally for all persons similarly situated. Uniform pension legislation should be the general rule, and while some exceptions must necessarily be tolerated, the general purpose should be to provide for all alike who are equally deserving, and their right to relief should be guaranteed under just and liberal general laws, and not be made to depend on their having the ear of their Congressman or upon the zeal or influence of some unscrupulous pension shark.

Special laws of the average kind are ordinarily a legislative nuisance, because they are usually without real merit, and unnecessarily and unreasonably occupy the valuable time of legis-

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lators who should be engaged in studying and serving the general interests of the whole instead of the particular interests of a few.

For some years Congress was in the habit of passing special bills giving to various soldiers' monument associations, posts of the Grand Army of the Republic, and municipal corporations, some condemned cannon which the Army or Navy Departments did not need, and these bills became so numerous that they clogged the calendars of the two houses, and in the year 1896, after having passed some twenty-four of them that year and the calendars being full of others awaiting action, Congress finally tumbled to the idea that it might with propriety pass a general law authorizing the Secretaries of War and of the Navy to loan such cannon to such organizations under such rules and regulations as those officials might prescribe, and accordingly such a bill was passed and became a law on May 22, 1896, much to the personal comfort of individual Congressmen and to the relief of the session laws of the United States.

The Constitutional amendments which were adopted in 1874 in New York, and which were retained in the revised Constitution of 1894, accomplished much in the direction of home rule, whereby the Legislature was expressly forbidden to pass any private or local bills providing for changing the names of persons, laying out or altering highways, locating or changing county seats, providing for changes of venue in civil or criminal cases, incorporating villages, selecting grand or petit jurors, regulating the rate of interest on money, conducting elections and designating places of voting, increasing or decreasing the allowances of public officers during the terms for which they were elected or appointed, granting the right to lay down railroad tracks, granting to any private corporation, association or individual any exclusive privilege, immunity or franchise whatever, or providing for building bridges except in certain specified instances; and these amendments empowered the Legislature to pass general laws providing for such cases, and "for all other cases which in its judgment may be provided for by general laws;" and also directed the Legislature "by general laws" to "confer upon the boards of supervisors of the several counties of the State such further powers of local legislation and administration as the Legislature may from time to time deem expedient."

These wise and important provisions have proved of especial

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benefit to the people in preventing much legislative interference in their local affairs and in enabling them to enjoy a large measure of the blessings of home rule, but the inestimable advantages in those directions might have been greatly enhanced had the Legislature, on the one hand, fully availed itself of its authority to confer upon local authorities additional powers of local legislation as contemplated by the Constitution, and, on the other hand, had refrained from evading its provisions by passing laws which, while general in their form, were really "local or private" in all their essential features, but which the courts have been reluctant to declare unconstitutional.

"The Tendency of the Courts to Sustain Special Legislation" is the subject of a paper read by the Hon. John Woodward, of Jamestown, N. Y., a Justice of the Supreme Court of the Eighth Judicial District, before the Social Science Association at Saratoga Springs on September 7, 1899, which has been published in pamphlet form and which I have perused with no little interest. It is an able presentation of the question, and does infinite credit to this accomplished jurist. In well-chosen words he deprecates the previous tendency of some of our courts to sustain special legislation, and urges a rigid adherence to the old-fashioned doctrine of a strict construction of Constitutional prohibitions against the exercise of legislative power.

In view of a recent decision of our highest court he declares that "the re-action has set in; the courts have called a halt upon this class of legislation, just as they did in the legislation which sought to violate the policy of home rule in the selection of local officials." He now believes that "the tendency of the courts, both in the States and in the nation, seems to be in the direction of a larger protection of individual and community rights against the encroachment of legislation."

Judge Woodward's paper can be read with profit by every judge, lawyer and student in the country.

The passage in 1898 by the New York Legislature of a general law (which went into practical effect on January 1, 1900), providing for a uniform charter for all cities of the second class, as defined in the revised Constitution of 1894, was a step in the right direction for which the Legislature deserves commendation. The danger is that the Legislature may be persuaded to frequently amend the act, not in its general features, but in providing ex-

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ceptional provisions to meet the supposed requirements of some particular city; and in that event the charter soon ceases to be uniform, losing its general character, and special charters might as well be substituted at once.

But the movement to secure a uniform charter for cities of the third class seems to have been abandoned. This is unfortunate because, as the number of such cities largely exceeds that of the second class, the necessity of uniformity is greater, and the benefits would be augmented proportionately. The propriety of a uniform charter for all the villages of the State, whether incorporated before or since 1874, deserves careful consideration, because, while the Constitutional amendments of 1874 prohibited the incorporation of villages thereafter, except under general laws, which have since been passed, yet there were hundreds of villages in existence in 1874 already incorporated under special acts, whose charters are still amendable at the pleasure of the Legislature, and which are being constantly tampered with. It may be stated in this connection that last year alone there were passed forty-two special acts relating to villages, and even that record was an improvement on recent Legislatures; and at the same time thirty-one bills were passed for Buffalo, twenty-four for Rochester, ten for Syracuse, nine for Yonkers, and a considerable number for other cities; while thirty-one special bills relating to towns, besides twelve for Westchester County, nine for Suffolk County, fifty-nine bills relating to miscellaneous corporations, twenty-two claim bills, fourteen escheat or release bills, fifteen amendments to the Penal Code, and fifty-eight amendments to the fish and game laws (the latter probably for the benefit of our amateur sportsmen from our large cities)—all found a place in our over-burdened session laws. In addition thereto, forty-eight amendments were added to the Code of Civil Procedure, showing what a defective (!) system of practice the State of New York had previously endured. An incident relating to the procurement of code amendments generally may not be amiss right here. It is well known that these amendments are largely secured by attorneys to affect particular pending law suits, but are usually pressed ostensibly in the public interest. Recently the chairman of a sub-committee on codes, who comprehended the situation and appreciated the humorous, presiding at a meeting of his committee, before which there had appeared numerous lawyers pressing their various code amendments, in-

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terrupted one of them who was about to proceed to advocate his proposed amendment in the "public interest," with the naïve suggestion, "Please give us the title of the cause before you proceed," which produced such a chorus of laughter from those assembled, and so disconcerted the astonished advocate, that for some minutes he was unable to proceed at all.

The effort in behalf of a uniform charter for cities of the third class deserves to be renewed, and notwithstanding the antagonism which it is likely to encounter from local and selfish interests, it should eventually be successful. No good reason can be urged why a citizen moving from one city into another city, or from one village into another village, in the same State, should find himself confronted with a different system of local government, different offices, different methods of taxation, different elections and other troublesome and vexatious differences in procedure.

Besides, uniform charters lessen the temptations for unfair partisan legislation. A temporary political victory or defeat in a city by a party politically opposed to the party in control of the Legislature, cannot well be made the occasion by the Legislature, as has been too frequently the practice in the past, for wholesale charter changes designed to secure temporary political advantage in that particular city, for the party which is in affiliation with the legislative majority, at the expense of the other party.

Fair, uniform and permanent legislation constitutes the true remedy for the evils of excessive partisanship.

Another suggestion is perhaps worthy of notice. The Constitution of a State should not contain too many india-rubber provisions; and while elasticity may be desirable in some of its features, it is more essential that at least the limitations and restrictions upon the arbitrary power of the Legislature should be so definite and certain as to leave nothing to discretion. The provisions of the New York Constitution, relating to certain private or local bills, to which we have heretofore referred, are of the latter character, and are for that reason especially valuable, but those which simply authorize the Legislature to pass general laws in "all other cases which in its judgment may be provided for by general laws," and those which require it to confer upon boards of supervisors such further powers of local legislation and administration "as the Legislature may from time to time deem

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expedient," and those which forbid the creation of corporations by special act except "in cases where, in the judgment of the Legislature, the objects of the corporation cannot be attained under general laws"—all these provisions being addressed merely to the discretion of the Legislature, afford no real protection to the people from unwise and ill-considered special legislation in the cases mentioned.

(3.) Bi-ennial sessions of the Legislature should be substituted for annual ones.

This has been accomplished in all but six States of the Union, and the combined testimony in all of the States wherein the improvement has been tried is to the effect that it has proved most salutary, reducing the volume of legislation and improving its character. There may be honest differences of opinion about the necessity of this step, but surely the favorable experience of so many States should count for something in its behalf.

There is much which may be urged in its favor. It lessens the opportunities for mischief. It affords the people time to discover what one Legislature has done, before another one is convened. It reduces the expenses of government. It is in line with the spirit of the age, which dictates less frequent elections, longer terms for local officials, for instance, like supervisors, and in national matters demands the election of United States Senators by the people instead of State Legislatures.

The effort to secure bi-ennial sessions for New York resulted in failure. A constitutional amendment proposing the change was first recommended by Governor Black in both of his annual messages and passed the Republican Legislature of 1898, in the Assembly almost unanimously and in the Senate by nearly a party vote; but in the succeeding fall the Republican State platform omitted to endorse the proposition, while the Democratic State platform distinctly approved it, but in the Legislature of 1899 it was unexpectedly defeated in the Senate by the Democratic minority, aided by a few Republicans—for reasons which have never been satisfactorily explained. There are some indications that the issue thus presented may enter into the campaign of 1900.

The question is sometimes asked whether the suggestion for the reduction of the number of legislative sessions is not a reflection upon the competency of the people to govern themselves. A

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fair question deserves a fair answer. The proposition implies no such criticism, any more than the reduction of the hours of labor, the establishment of the Saturday half-holiday, the early closing of places of business, the omission of schools on Saturday, or the summer vacations of the people which are becoming more general each and every year, imply a lack of public confidence in those who are allowed such a reasonable suspension from their ordinary avocations. It is a sufficient argument for bi-ennial sessions that there is no real necessity for annual sessions; and this argument censures no one nor anything. The necessary appropriations for the support of the State Governments can as well be made bi-ennially as annually.

The demand for less frequent legislative sessions is no more a reflection upon the competency of the people to govern themselves, than are the restrictions upon legislative power found in the Federal and State Constitutions. As well might it be suggested that the Ten Commandments are a reflection upon humanity, or that all criminal laws imply a lack of confidence in the people. The whole theory upon which government is founded is that the human race requires some such restraining instrumentality.

A clever writer (Mr. H. Gerald Chapin) in an article published in the "University Law Review" in 1897, describes some remarkable specimens of legislation which had recently been enacted or proposed in the various American Legislatures in the attempt to make mankind "good" by statute. He says:

"They would warrant the belief that our legislators are soon to be regarded as the 'fathers of the people.' Dress, ethics, the mere convenience of the citizen, nothing is too high or low for legislative inspection and regulation. The various and usually fruitless attempts to pry into strictly private and personal matters, by means of legislative investigating committees, so-called, are of this class. . . . Some recent legislative problems are especially to be noted. The Michigan Legislature has under consideration the prohibition of printing hotel menus in a language other than English: Indiana, the establishment of 'a new mathematical truth,' viz, the squaring of the circle; Nebraska the penalizing of football as a misdemeanor; Missouri, an act to prohibit railroad companies from using wooden rails and tying them with string, and flirtations with or by railroad employes; Kansas, an act to prevent the wearing of corsets or bloomers; Pennsylvania, so we hear, an act to require every man to pay for his own drinks; Minnesota, a bill to require a red light to be displayed on the outside of every drinking saloon, with the word 'Danger' thereon; and the Senate of another State not long ago wrestled with the problem

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whether a druggist selling patent medicines should not keep affixed in a conspicuous place in his store an affidavit stating that he had himself tried one bottle of the mixture in question and experienced no deleterious effects therefrom. At the present moment another learned assembly is gravely debating the question of the statutory enactment of the Ten Commandments, an amendment having been proposed to the tenth prohibiting the coveting of a neighbor's bicycle; and the high theatre hat has been the subject of much anxious legislative thought in half a dozen States.

"The truth seems to be that our unhappy country at the present moment is surfeited with legislation. Believing, in our gloriously democratic way, that every man should be given the chance to enact laws, provided his pull with the political leader of his district happens to be strong enough, we send every year into our Legislatures men of transcendent (!) ability, . . . but of somewhat limited parts as regards the duties of their new office. As a matter of fact, statutes have already been passed to regulate human conduct in all the more important points, and a new fledged lawmaker goes to his particular Senate or Assembly with a vague notion that he must make laws of some kind, that being what he is elected for. He finds scarcely anything of real importance that demands attention, and consequently resorts to paternalistic methods. Legislate he must, and legislate he undoubtedly does. A most naïve statement is reported to have been made by a some-time member of a certain Western Legislature when asked what object he had in view in introducing a bill prohibiting the use of stuffed animals for advertising purposes, and who said that he had thought for two full months of some law that he could introduce, but found that most of his ideas had been pre-empted, until he passed a furrier's window, wherein was a stuffed and mounted lamb. This American Lycurgus thereupon, inspired with a noble zeal for the public welfare and conscious of the demoralizing effect that the sight of stuffed lambs would have upon the mind of the common citizen, peacefully pursuing his tranquil way along the street, all unconscious that a sight of such horror and awfulness was soon to burst upon his affrighted gaze, nobly 'seed his duty and he done it.'

"There is one new act, however, to which our unqualified support would be given—a bill which would materially reduce in number the sessions of State Legislatures."

(4.) Wherever the evils of over-legislation exist, constitutional amendments should be secured further restricting the power of legislation.

This may not be an easy task in some States, but nothing is impossible in a free Government like ours. Agitation is the strongest weapon of a freeman, and it is an accepted truism that a cause which is right is sure to ultimately prevail.

The expenses of government are everywhere increasing, both in State and Nation; and while legislative bodies are busy devising new schemes of taxation upon the people, there are none of them proposing anything for the relief of the taxpayers. The more the

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revenues of the State are increased, the higher the taxes seem to become. New officials are constantly being created, salaries are being raised, State commissions are being multiplied, and old laws which have stood the test of time and experience are being swept aside in a mad rush for new and experimental legislation.

Constitutional restrictions on the legislative power would seem to be most timely.

The people do not require more legislation—they demand less.

They firmly believe in the old cardinal doctrine that " that government is best which governs the least."

Instead of extending the powers of government, individualism should be exalted, and the arbitrary powers of government curtailed: all of which can safely be done as a higher civilization advances. Strong governments are not needed in this age of reason as much as liberal governments, whose strength is founded on the affections and intelligence of the people.

I realize that this sentiment in favor of individualism somewhat runs counter to a concerted effort which has recently manifested itself in behalf of governments—National, State and municipal—assuming the direction and management of every enterprise and undertaking of a *quasi* public character. Within appropriate limitations the proposition is not without some merit, but it should not be extended unreasonably, or else the principles of socialism might as well be adopted at once. The desirability of the control and regulation of such enterprises, especially those which are corporate in their character, is one thing, while the necessity of the ownership or actual management thereof, as a part of the functions and machinery of government, is quite another and a different thing. The one is safe and desirable; the other is largely experimental and may not be without some elements of danger.

Control, for the public welfare, under prudent laws, is always expedient: paternalism is always objectionable.

The present American people have never suffered from the despotism, the exactions, the corruptions, the arrogance, "the long train of abuses and usurpations" on the part of their Government and its officials as did their forefathers of Revolutionary memory, and hence they do not readily appreciate the hardships and dangers of immense standing armies, of unjust taxes, of arbitrary laws, of "a multitude of new offices" and "swarms of

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officers to harass our people and eat out their substance;" and they are therefore slow to realize that any perilous complications and difficulties can possibly arise from an increase of legislative powers and an extension of the functions and operations of government.

It is believed that, guided by "the lamp of experience" derived from the lessons of history, the great conservative masses, the thinking people of the country, the men who honestly work with muscle and brain—not merely "The Man with the Hoe," but the independent, resolute and intelligent men in the field, the shop, the office, the pulpit, the press, and all the avenues of trade and commerce, and thought—those people who lend dignity to labor and add character to the free institutions of our country, who know their weakness and realize their strength, are not clamoring for greater power for the Government, but prefer more individual freedom for themselves; they are not turning to the State for aid in all their private enterprises, but, on the contrary, wish to be let alone; and finally they are not asking for more laws, but for less, having already reached the reasonable conclusion that "We Are Too Much Governed."

DAVID B. HILL.

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CHIEF CAUSES OF DISCONTENT IN INDIA.

BY A. HENRY SAVAGE LANDOR.

DEFEAT after defeat for the British arms—or, disaster after disaster, as we prefer to call them when the loss is on our side—has stared us in the face since the beginning of our war with the Transvaal. England has had to witness the sad spectacle of her most popular generals pass from the status of exalted tactitians to that of blunderers. We may well ask what we are to look for next. We are told in Mr. Balfour's late speech in Manchester that "the Government was absolutely ignorant of the actual strength of the Boers; that there was no official knowledge that the Boers had all mounted soldiers; that they possessed armored trains and artillery as good, if not better, than ours;" and all this, to use Mr. Balfour's words, "because there was nobody to tell us of the importance of these things." Yet, leaving aside the advisability of embarking in such a war, neither the generals nor the home Government are altogether directly to blame for our unpreparedness and its fatal results. There is no doubt whatever that from beginning to end they had been grossly misinformed. It would, however, be interesting to know how it was that they came to be so misinformed. Was it ignorance on the part of our local officials or wilfulness?

Let us take the South African question as an example of what might happen to us in India should ill-fortune further attend our arms in South Africa. Hardly since the beginning of the present war, have I heard mention, or speculation, as to what moral effect our lost battles in Africa might have on the natives of our great Indian dependency. Why is this? Because the home public are led to believe that we are invincible in India; that we have there a well-regulated and powerful Government, an efficient and sufficient army; that we are beloved by the natives, and that never will there

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be a rising of the population against the British, such as the mutiny of 1857. For some years it has apparently been the policy of the Government to hide from the public anything that might bring criticism on the doings of its officials; and the people have so far been astoundingly ready to swallow, in perfect faith, all that has been served to them; this owing to the commendable faith they have in their leaders. One thing in England that must strike a travelled man is the absolute lack of knowledge on the part of the Government and the majority of the people regarding our colonies, chiefly those in Asia. This ignorance, as I have already said, must to a certain extent be excused, since it is caused by the incompetency of the officials there employed. I have known of several cases where the Government has been and is still grossly misled and misinformed by local officers. Speaking from my own experience, an official of no less importance than a certain Lieutenant-Governor still in office in India, at a conference which I attended regarding my Tibetan troubles, had not the slightest notion where his northern frontier was, and his geographical knowledge was so meagre that he actually asked me whether one important town in his own province was a suburb of Lhasa in Tibet! As for the frontier tribes, their characteristics, their troubles, the Lieutenant-Governor scarce knew of their existence. Other officials present, with the exception of two, were just as vague regarding information on matters relating to their own district and frontier, and I could quote one instance where, possibly through the ignorance of the informer, the House of Commons has been shamefully misled concerning affairs on our frontier and disgraceful abuses to our natives.

There is no doubt that our Indian Empire has not forgotten the lesson received in 1857, and the people are beginning to get accustomed, although not reconciled, to our civilization. The civil administration of the country is theoretically much improved; in fact, so improved that, for practical purposes, it would suit the natives better were it not quite so perfect. The Government since the time of the Mutiny has not left a stone unturned to establish British rule on a firmer basis, and the native population, first aghast and suspicious at the radical changes which we made in their country, have fallen in with apparent readiness with our Western mode of locomotion, our telegraphs, postal system, and education. We now find excellent universities

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in Calcutta, Bombay, Allahabad, Madras and Lahore, where the English language is not only taught, but actually used as a medium of instruction; and such, I believe, is also the case in many of the primary schools of the principal towns and stations. Lower and primary schools are innumerable all over the country and are well attended, the natives showing a keen desire to have their boys instructed according to Western notions. They, nevertheless, display much reticence and even objection to having their women educated. It has been found from experience that the promotion of education has only been thoroughly appreciated by the natives when founded to a certain extent upon lines indigenous to the land, when the changes from the Eastern to the Western mode of thinking have not been too sudden, and when they combine in themselves some of the conservative traits so dear to Asiatics with the go-aheadativeness so characteristic of the Anglo-Saxon.

There are scattered about India a number of private missionary schools, and, where conducted in a reasonable and tactful fashion, they are doing good.

The public schools are under the supervision of a provincial department of public instruction, and they are subsidized by the Government, which spares no trouble in attempting to support and perfect all such institutions. This is very commendable, and the natives should be grateful, for indeed a boy can to-day receive in India an education as good as, if not better than, he would in England. Unfortunately, it will be found on closely studying the natives that these very fellows who have been educated by us to a point much too high for their social position in the scale of human races are the first to turn enemies of Britain, of the Government, of all imported institutions. With their superior education they obtain great power over the less educated masses, and, having learned our weak points, they are not loth in secretly spreading revolutionary ideas among the people. These fellows, nominally by examination, in reality mostly through protection, generally manage to obtain Government billets. Showing abject servility to British officials, they manage to get a thorough insight into the most secret doings and condition of the Government. It is to be hoped that we shall not live to see how this information may be used by them.

But to proceed. The Government has established a regular

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network of railways and roads, built firm bridges over every river, and canals have been cut in all directions to provide against that sword of Damocles that ever hangs over India's head—famine. Extensive granaries and stores are kept in hand to supply the population, and strict measures are enforced to minimize its sufferings. Government officials are despatched to work among the people, rendering assistance to all who require it. Yet when famine comes, precautions of no mean scale have to be adopted for fear of a rising.

The Hindoo population, as everybody knows, is divided into a number of castes. Roughly speaking, the chief ones are the Brahmin or priestly caste; the Rajputs, the "King's followers" or warrior class, and the agricultural settlers, the servile classes, subdivided into minor divisions, such as Sudras, etc. Then there are over fifty-seven millions following the religion of Mohammed, who seem to be in constant friction with the Hindoos. Serious riots between Mussulmans and Hindoos are frequent in the larger towns. We have a small percentage of Christian converts, subdivided into innumerable creeds, each at war with all the others, and in their turn looked down upon with the utmost contempt by both Hindoos of all castes and Mussulmans, not to speak of the English community.

Last, but not least, there is in India a large number of Eurasians, or half-castes, unfortunates possessing all the evil qualities and none of the good of both the English and native races. In a way, if this is the case, they individually are not altogether to blame for it. It is through no fault of their own. People are hard upon them, almost to the point of cruelty. They are treated little better than vermin by the British; they are ridiculed by the natives; they are excluded from Anglo-Indian society—a small loss, if you like, yet one which they much feel. They are generally refused admittance to local English clubs. No one associates with them; they are outcasts, and the stigma of a fault which was not their own is at every occasion thrown in their faces. These well-educated fellows, as a rule, possess wonderful brain power, joining the acuteness of the Asiatic with the smartness of the European. Hated by their own parents, looked down upon by all, they keep among themselves, forming a distinct class of their own. Unable to raise themselves from the mud, not because they lack ability, but because they are forcibly

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kept there, it is no wonder that all the good in them, if ever there was any, has been stamped out, and that they detest the British for the treatment they receive.

One of the worst pests in India, however—one which we have created and which is the chief cause of the ever-growing ill-feeling of the natives against the British—is the swarm of unscrupulous pleaders, or native lawyers. This disreputable class we have introduced in the country, in order that law may be administered according to Western ideas. These fellows, whom we have thoroughly trained into the mysteries of our law, take advantage—naturally enough and with the object of filling their own pockets—of the ignorance of the natives to encourage legal procedure on the slightest pretext. Any one who has visited India knows well enough the mean, quarrelsome nature of the inhabitants, especially in money matters. These lawyers have no difficulty in finding fertile soil wherein to sow the seed of discord and litigation. To a casual observer, this would seem only to affect the parties concerned, but the evil is much further reaching. Like most other Asiatics, the Indian is born in intrigue, lives in it and for it and dies at it. Save the younger generation, which is better educated, the majority of the people are absolutely ignorant of the complicated technicalities that in our Western law are necessary to conduct a case in court. Thus, in a moment of weakness, petty quarrels that could be settled easily by the good advice of an honest friend, are dragged by the pleaders from one court to another indefinitely, until one or both litigants become penniless. But this long, tedious, expensive way of settling quarrels is not to the taste of the Asiatic native. He has always lived in servility, and he likes to have a master whom he honors and can look up to—a master who can tell him straight when he is right or wrong, a man before whose authority he can bow, and who is able to define and give sound judgment on any civil or criminal case without having to appeal to a higher court. Suspicious as the natives are, often with reason, of intrigue and bribes to influence the magistrate, the very existence of courts of appeal is only put down by them as a check to the incompetency and dishonesty of the various magistrates. Thus, with rare exceptions, there are few magistrates in India that, in the eyes of the native masses, command absolute respect and confidence. The most honest and just of them are never trusted by the

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natives; and, if the people go to law, it is not with the intention of obtaining justice, but simply to gamble. The serious fact that many of our magistrates are incompetent youths hardly out of their teens, with no experience of the world and an overbearing manner, goes far to shake the confidence of the nation in the respect that the officials of the Queen should not fail to command. We want men like Sir Henry Ramsay, who administered the law in his own patriarchal fashion, was a thorough gentleman, firm, just, courteous and paternal, and who to-day, many years after his death, is still remembered by the natives of Kumaon Province, as a *debta*, a god, "whose like," they add, "alas! we shall never see again in India." Notwithstanding the technical faults which the new class of petty "shop keeper" officials attribute to him, I rather doubt whether there is, or ever will be, in India an official so highly respected and adored. He went by the name of "King of Kumaon," a nominal title which he fully deserved, a title, indeed, different from that applied to his present successor. Sir Henry studied and understood the natives, he enforced his will upon them, he treated them with courtesy, and by so doing gained their confidence. He was their father, their adviser, their comforter, not an unapproachable figurehead, like some of our present officials, whose tactless snobbishness gives a shocking example to the natives, and brings their hatred upon the whole British nation.

There is a belief prevalent among the younger lot of "civil officers" that it is only by slashing the natives with a whip across the face for no plausible reason, by not allowing them to approach, by treating those of high birth like low tramps, by never condescending to shake hands with even the noblest of them, that the prestige of the British Empire can be kept high in the estimation of the population of India. The most common answer one receives when astonishment is shown at such conduct, is: "Well, you see, we have not forgotten the Mutiny of 1857. We must impress the natives that we are the rulers." And they never perceive that the best way to bring about another mutiny is the pursuance of this short-sighted policy. In a country like India where a gentlemanly and courteous manner, more than anything else, appeals to the mind of the people, and where officials are judged by what they do and not by what they think themselves; in a country where the minutest actions of individual Britishers are watched, discussed with an unusual amount of sound sense

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and magnified either in exaggerated praise or condemnation; and, moreover, with the astounding rapidity with which the natives can spread and circulate news all over the country, it is a great pity that so much and fast-increasing discontent and actual ill-feeling against the British is created by the inexperience and narrow-mindedness of some of our "civilians." A thoroughly insular but much mistaken notion is imported with these boys in the Civil Service, that every man who is not an Englishman is "a nigger;" and as they seldom take the trouble to study or try to understand the natives over whom they are given so much power, as they seldom or never move among them, they rarely learn to discriminate that even among "niggers" there are men of brains, there are gentlemen whose acquaintance is worthy of being cultivated and even revered. Let me give an instance.

"Get out of my way, you dirty nigger!" shouted one day a certain Deputy Commissioner in the North West Province, to a wealthy and most honorable native, who had approached him, stooping low and with a grand salaam—a gracious custom to express his pleasure at the official's visit to his village. The *chaprassis* who stood by the pompous youth, hearing the angry words of their master, seized the native gentleman and knocked him out of the Sahib's path.

"Why did you do that?" I asked the Deputy Commissioner. "Oh," said he, twisting up the ends of his diminutive, fair moustache, "we have to keep up the prestige of England. That is the only way we can make them feel we are their superiors. That man will have the greatest respect for me now."

It is usually my habit to hear both sides of a story before forming an opinion. Having heard the official, I proceeded to interrogate the native, who, half-ashamed and deeply hurt, stood sulkily a little way off.

He salaamed me, and, much to his astonishment and delight, I salaamed him back and entered into a most instructive and pleasant conversation regarding the country around, the natives, their customs, trade, etc.

"What do you think of Mr. ——, the Deputy Commissioner?"

"Oh, Sahib," said the old gentleman, "it is a pity the *Maharanee* (Queen) Victoria does not now send to us men of good birth and breeding. We would gladly give our lives for them, a thing we will never do for fellows . . . like that." And,

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with an expression of the most absolute contempt, he spat upon the ground to give strength to the expression of his feelings.

"What has he done to you?"

"He thinks, by not returning my salaam and having me thrown back by his *chaprassis,* that he is a *bura Sahib*.* But men of high position are kind to their fellow creatures, whether poor or rich, white or colored. I will tell you. Some years ago, when the Queen's first son (the Prince of Wales) came to India, I waited on the road at Cawnpore to see him. I got near the carriage and I salaamed. The Prince, the highest man in your country, returned my salaam; yet a mere servant of the country, like the Deputy Commissioner, who is fed at our expense, never returns salaam for any one. That shows that he is a man of low breeding. We love and worship the Sahibs that are just and kind, but we cannot appreciate the like of that man." Here another expectoration.

I agreed with the native, remarking that spitting is a bad habit. He said he only did it when he spoke of men that were unclean. I have mentioned this incident, for it depicts the feelings of most natives.

Another source of friction and discontent is the coolie question as applied to travelling officials. It is compulsory for every village to supply a certain number of coolies when requested by the official's *chaprassis,* and also provisions, etc., for which the natives should receive payment. Each coolie is usually entitled to a pay of four annas (four pence) for a march the length of which is established by local regulations and varies from about eight to fifteen miles, according to locality and condition of roads. These coolies are wretched creatures, who live from hand to mouth, and whose miserable existence can but excite the pity of any traveller. Yet I have known an official, who, while furnishing each coolie with a load considerably heavier than they are supposed to carry, illegally cut down their already meagre pay by about one-half. Result of this, abuse of Sahibs in general all along the line, natural comments on what became of the other half of the pay to which they were entitled and which they knew the official received in full from the Government, and disgrace and dishonesty applied to Her Majesty's servants at random. Another frequent occurrence when officials travel is the casual

* A great man; used in the sense of a high officer.

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way in which they leave money matters regarding the purchase of provisions for their swarm of followers, to be settled by *moonshees, bearers* or *kamsamas.* In many cases, the villagers are made to provide food for all the camp and amounting, for them, to quite a small fortune, and although the official may be under the impression that he is paying for it all, not a penny reaches those who supply the goods, but the money is instead divided among dishonest servants. The villagers have no way of approaching the officials to complain; for, if they do, they are ejected by the very servants who have swindled them of their due. Every time that I have travelled through India, it has been a source of great pain to hear the complaints of the poor villagers against the individual doings of officials; and many a time I have blushed to think the almost incredible fact that my own countrymen can lower themselves to take advantage of poor natives. I can quote even worse. A Deputy Commissioner well known all over the North West Provinces for his dishonesty, intrigue, misconduct and ignorance—yet with all this a *protégé* of the Lieutenant-Governor of the North West Provinces—for purposes best known to himself, tried to compel natives to give false evidence in a certain case. He threatened them with *imprisonment if they spoke the truth,* he forged statements of several witnesses, and having been discovered, caught *flagrante delicto,* was severely reprimanded by the Government, and was removed from the hill station, where he occupied the highest post. Although in disgrace, I am told that he is still in the Civil Service.

Now, I do not believe that there are many who go quite so far as this; but people in England have no idea how much harm even one man of that kind may do in a district of several hundred thousand people. If one points out these facts concerning our officials, it is merely to show that if we continue to pour into India men unfit to govern—men who, like our Intelligence Department in South Africa, mostly through ignorance and self-reliance, grossly misinform the Government—no doubt we will find that sooner or later we will have in India a disagreeable surprise, which will be even less expected, and probably more felt, than our Transvaal trouble. This is not the time to unnecessarily alarm the nation, only it is well that England keep her eyes open, for should we have more disasters in Africa, India, no doubt, would be the first colony to give us trouble. The abject

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servility of the natives may deceive the casual and inexpert observer; but under it is, half-smothered yet ready to flare up again, a flame which the slightest ill-wind might develop into a destructive fire. Much harm is done in that direction by the scurrilous native press of India. These papers are usually edited by pleaders and hot-headed students, their main object of publication being to attack the Government and create a general ill-feeling against the British. Too much freedom is allowed to these sheets, the writers of which are interested instigators of riots and quarrels between religious factions, as well as gross misrepresenters of the policy of Great Britain in her Indian Empire. But one thing above all which England needs must see to—and it has been plainly shown in the unfortunate blunders in South Africa—is that she ought to be careful in the selection of men to whom her interests are entrusted. Ignorance is bliss, no doubt, but when we have to contend with rapidly progressing adversaries such as Russia, we had better not fall again into the fatal blunder of overestimating our power and resources.

The days of placidly relying on our prestige have passed; we have educated the natives; we have spoiled them to a great extent; we have given them a freedom which they neither understand nor appreciate, and they do not thank us for it, no matter what the official reports may say. Were a great conflict to take place between England and the ever-advancing Russia, I much doubt whether we could rely on our Indian subjects to stand *en masse* by us. There are many things that might be said, only let England find out thoroughly how she stands in India before it is too late. A good step was taken in appointing Lord Curzon as Viceroy. A man of his talent, firmness, knowledge and tact is bound to do endless good in India. Even during the short time he has been in office, he has been able to win back to a certain extent the hearts of the natives who were wavering, and with his sound judgment and his fearless temperament, he has already been able to do away with much of the endless and incomprehensible red tape, intrigue and protection that have of late made us so disliked by the natives. "To me," he said in a speech at a *durbar* held lately in Lucknow, "it seems that the times have passed by when the ruler or the deputies of rulers can anywhere live with impunity in the clouds of Olympus. They must descend from the hilltops and visit the haunts of men." That is just what is wanted

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in India. Let all the officials grasp the meaning of those words and let them carry them out in practice. Let them remember that whether yellow, or brown, or black, the natives of India are human after all; therefore why not within their compass treat them as human? Certainly I think it is unwise to give them inmeasurable freedom in one direction and absurd restrictions in another, such as the sanitary regulations which are no doubt quite in keeping with the requirements of Brighton, Eastbourne or Westgate-on-Sea, but somewhat hard on the nerves of Orientals who have their villages perched on the slopes of the Himalayas. There is at present in India too much done in the line of adapting villages and towns to the standard of the various suburban localities in England, from which the young officials have arrived direct. A little experience, however, ought to teach them that what is good in Brixton or Hampstead Heath is hardly conducive to the happiness of Hindoos or Mohammedans, and is often in conflict with their religious ideas. Much unnecessary friction might easily be avoided. I have always found that with a little common sense and fairness one can easily get great power over the natives, who wish for nothing better than to be well led. Another most exasperating thing for the natives is the constant change in their ideas and methods of living. Each succeeding officer invariably finds that all that his predecessors had done in that direction was all wrong. What the natives are told is to-day the right thing to do, is to-morrow disgraceful, and the next day right again. Conservative and sound enough in their own reasoning as they are, how can they have confidence in us? They are puzzled, they can well see through it all; they conclude that our officials are incapable, nor, indeed, can one blame them for it.

There is, so far, no cause for immediate alarm, yet let England be on her guard. If prepared she will no doubt hold her own, but I repeat again, let her be prepared.

A. Henry Savage Landor.

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DISAPPEARING AUTHORS.

BY JUSTIN M'CARTHY.

BEFORE entering on my theme I think it well to say that, when I write of disappearing authors, I do not mean authors of the revolving-light order, whose rays disappear from our sight for a moment, only to shine as brightly as ever in the certain moment of return. There are some authors, and really great authors, too, whose fame seems to be governed by a sort of process of regular action and reaction. The author is cried up during the later years of his successful working time and for a while after his death, and then the reaction sets in. People begin to say that too much has been made of him, a new school arises by whom he is proclaimed to be old-fashioned, and it gets to be the right sort of thing not to admire him or even to talk about him any more; and so, for the time, the author has disappeared. But if there was any real stuff in him the disappearance is only for a time. He outlives the reaction against him, he outlives the school which, for a time, was successful in crying him down, and he comes back to his former fame at the call of a new generation.

Macaulay was an author of this order. All the reading world went wild over him during his later years, and then after his death a reaction took place, and those who claimed the right to dictate to public opinion pronounced that Macaulay was nothing but well-balanced antithesis and elaborate exaggeration. But already Macaulay is coming back, and we find his imitators even among the school of those who but lately were professing their scorn for him. Something of the same kind might be said concerning an author of later date and very different qualities, the author whom we still describe as George Eliot. George Eliot was idolized in her time; she was declared by many critics to be superior to Dickens and Thackeray, to Scott and Fielding. I heard one highly

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accomplished woman announce that, having read one of George Eliot's novels, she would never read any other novels, because she did not believe that any other novels could be worth the reading. Later, however, there came, at least in England, a decided reaction against George Eliot, and people who wished to be sure of saying the right thing would shake their heads when her name was mentioned and declare that she had been utterly overrated and that her day was done. In George Eliot's case, too, the reaction soon spent its force, and even young persons now are not afraid to say that they admire "Adam Bede" and "The Mill on the Floss." I am inclined to think that both Tennyson and Browning are passing through the period of reaction also; but in their case, too, the revolving lights, if I may return to my former metaphor, may be expected to turn their full rays upon us soon again.

Such are not the disappearing authors concerning whom I wish to write. My subject has to do with the authors against whom there is no visible reaction, who are not disparaged or underrated by any school of critics, or indeed by criticism of any kind, but who were undoubtedly very popular at one time, and whose popularity is now unmistakably fading. The disappearing authors whom I have in my mind do not, any of them, represent any set school of literature. If they did, their disappearance might be easily explained. It might be said that the public grow tired of the ways, the fashions, the tricks of a school, and are glad to be rid of them once for all. But some of the authors whose disappearance, gradual though it be, I cannot help observing and whose disappearance I personally regret, were not followers of any particular school, had no set mannerisms or fads, and were indeed in their way thoroughly original. Take, for instance, such a man as Charles Kingsley. Kingsley did not attach himself to any school, so far as novel writing was concerned. In such a book as "Alton Locke," he drew directly from the life he saw around him. There was nothing in a school of literature which flourished at or before his time that could have taught him anything about the scenes he had to picture in his romance. But I wonder what proportion of English-speaking novel readers take much interest just now in "Alton Locke." The same question may be asked about any other of his novels. Yet there has been no reaction against Kingsley that I could see. No sets of new critics have gone to work to disparage him and to teach us that we were all wrong when we consented

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to admire him. I am afraid there can be no doubt that he is one of the disappearing authors.

What about Anthony Trollope? Was not Anthony Trollope popular, even during the days of Dickens and Thackeray? And who ever preached a reactionary crusade against him? Yet is he not fast disappearing from the attention of our novel readers? Trollope, unlike most successful novelists, was himself made sensible during his later years of a steady decline of his popularity. I heard a well-known London publisher once say that the novelist who had once obtained by any process a complete popular success never could lose it during his life time; that, let him write as carelessly and as badly as he might, his life time could not last long enough to enable him to shake off his public. But the facts of Trollope's literary career show that the declaration of my publisher friend was too sweeping in its terms. For several years before his death, Trollope's prices were steadily falling off. Now, one seldom hears him talked of; one hardly ever hears a citation from him in a newspaper or a magazine.

Charles Reade, too, that strenuous, masculine, masterful novelist, must he not be regarded as one of the disappearing? Probably it may be said that most of Reade's novels were novels with a purpose, novels written to expose some social grievance, or some iniquity of legislation; and that, with the gradual accomplishment of the purpose, the interest in the book necessarily fades, just as the speeches of the political reformer soon cease to be read when once the reform has been accomplished. Still, I should have thought that the artistic workmanship of most of Reade's books was good enough to secure for them a life with the ever-living works of fiction. Moreover, the one of Reade's novels which has usually been accounted his very best—I mean "The Cloister and the Hearth"—has nothing to do with law reform of any kind, and I have lately seen it stated, on what appears to be good authority, that "The Cloister and the Hearth" is the one of Reade's books which would have the poorest chance just now of a large circulation in a cheap form. Besides, we have to remember that most of Dickens's stories are concerned about social or legal reform of some kind; and, although we have got rid of schools like Dotheboys Hall, and no longer allow imprisonment for debt, still the very youngest among us is not likely to class Charles Dickens among disappearing authors.

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I am afraid my old countryman, Charles Lever, must be consigned to that vanishing order, although some of us can well recollect the day when the red-covered monthly parts of his stories used to be looked for with almost as keen an interest as the yellow covers of Thackeray or even the green covers of Dickens. Perhaps it may not be altogether unnecessary to explain to an American reader who has not yet passed middle age, or, indeed, for that matter, to some English readers in the same blessed condition as to years, that the novels of Dickens, Thackeray and Lever used to make their appearance in monthly parts, twenty-three parts constituting a story, and the twenty-third containing two instalments issued together in order not to tax too severely the impatient curiosity of the reader. I think the last English novelist who thus appeared in monthly parts was my old friend Shirley Brooks, who belongs, I regret to say, not to the ranks of the disappearing, but of the disappeared. Now, Lever's novels had nothing to do with law reform, or social reform of any kind; they did not depend for their interest on the existence of any particular grievance; they were undoubtedly clever, brilliant and original in their own way; and yet there can be little doubt that they are disappearing from among us. It cannot even be said, with regard to the best known among them, that they tell of lives and people whose ways were not our ways, and that, therefore, we are ceasing to care about them, because, I believe, there are Fox Hunts and Steeple Chases going on at this very day, and I read in the papers that English soldiers and Irish soldiers are being killed together on the far-off battle-field, while I am working at these pages.

I have often read and heard, of late, that certain novels are no longer popular because they are old-fashioned, and I have entangled myself in many futile discussions as to what constitutes, in that disparaging sense, an old-fashioned novel. Is a novel old-fashioned because it describes manners and customs and costumes which are now out of date? If this be so, then, of course, Dickens and Thackeray, to say nothing of poor Walter Scott, are old-fashioned, and "The House of the Seven Gables" has nothing to do with the fashions of to-day, and Jane Eyre is a hopelessly old-fashioned little person, and Romola herself is hardly up to date. Do the censors of the old-fashioned mean to tell us that we ought to read nothing in the shape of a novel unless it occupies itself only with the manners and customs of the year or the week in

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which we live? But then, if they do say this, how do they explain the popularity of Dr. Conan Doyle and Mr. Stanley Weyman in their scores of adventures in the far-off days of romance? I have, indeed, argued the point with some critics who maintained that Conan Doyle and Stanley Weyman could not be set down as old-fashioned because, although they sometimes dealt with old-fashioned subjects, they always treated them in a new-fashioned and up-to-date sort of way. But even this way of looking at the matter would only put off for a little the fate of Conan Doyle and Stanley Weyman, because, after a short lapse of time, their very way of treating the subjects will itself seem old-fashioned to a new and a pert generation, and there will be an end of them. I do not think, therefore, that we can account for an author's disappearance merely on the ground that he is growing old-fashioned and that he is not up to date. Nor do I think it can be settled merely by a general declaration that all the really great authors shine for ever, and that only those disappear whose light has lost its power of illumining the human heart and intellect any more. This, of course, if we could all accept it, would be a very satisfactory and comfortable application of the doctrine that proclaims the "survival of the fittest," and there would be no occasion for argument or protest or pity. But I cannot, for myself, quite accept this dogmatic conclusion. There are some of the disappearing authors who have written books which seem to me quite as well entitled to hold a place in what may be called our classic literature, as some of those which we all believe to be firmly enthroned there.

I do not quite know where to look for two short novels, little one-volume stories, which have in them more truth and tenderness, more genuine human feeling, and more faithful local color than are illustrated in Anthony Trollope's "Linda Tressel" and "Nina Balatka." These stories were published anonymously, because Trollope wanted to try whether he could make a success in scenes and atmosphere and a kind of life which he had never touched before; and, in order to give the public a better chance of forming an unprejudiced judgment, he did not put his name to either of them. The stories, however, delighted the critics, and, for the time, delighted the general public. After a while, Trollope acknowledged their authorship, and most of us declared that he had never done better work in his life. But I do not suppose that any one reads these stories now, and the Trollope who still lingers

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among us is the Trollope of "Barchester Towers" and "Phineas Finn." Of course, one has to feel much the same kind of wonder when thinking of some of the books that, with their authors, are not merely disappearing, but have absolutely disappeared. There was an effort made in London some few years ago to tempt the public—I mean the English-speaking public—into a readmission of the two Hajji Baba novels into popularity. They had a great run in their day, these two novels, "The Adventures of Hajji Baba of Ispahan" and "Hajji Baba in England," about the time when Captain Marryatt's sea stories were at the height of their celebrity; and I think for genuine humor, broad knowledge of human nature, and a keen appreciation of the Eastern way of looking at things, it would be hard to beat Morier's two stories, which tell how Hajji Baba rose from his humble position in Persia to be the Secretary of the Persian Minister in London. But the attempt lately made to get the newer public to take any interest in Hajji Baba's adventures was, I believe, a total failure.

I wonder how many of my readers could tell me, without consulting a biographical dictionary, who was Mrs. Marsh? Yet Mrs. Marsh was a very popular novelist within my own recollection, and there is a story of hers called "The Admiral's Daughter" which is curiously bold, original and successful in its drawing of character, and rises at its close to a tragic power and pathos which might seem to assure, as well as deserve, an abiding fame. I read the book when I was a young man, and was deeply impressed by it, and at that time, as I have said, the authoress was popular. Only a few years ago, I came by chance on a cheap copy of the volume containing it, "Two Old Men's Tales," of which "The Admiral's Daughter" was the longer and the more important. I read the story over again, and was fully confirmed in the judgment I had formed of it so many years before. I tried to get some of my friends to read it, but was not very successful. Some of them had never heard of it, and did not seem inclined to believe that a book could have great merits and yet never have forced itself on their attention. One man told me that he had read it on my suggestion, but that it did not belong to the modern movement of fiction and it therefore failed to interest him. I pointed out to him that it might distinctly be classed as a problem novel, although it was written before the days when the problem novel had set itself up as an institution, and had been proclaimed as a school.

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"Don't you see," I vainly pleaded, "that the whole story turns on the fortunes of three persons, two men and a woman, all three being delightful and excellent persons in themselves, and that the tragedy and the trouble arose from two of the three getting married under the impression that they would keep on in love with each other for ever, and then the third person finding himself in love where he ought not to be, and so on to the fate of all three." I do not myself particularly admire the problem novel; but, as my friend raised objection to the story I favored, on the ground that it was not in the movement of modern fiction, I had a faint hope of conquering his objection by urging that it was as good a problem novel as any other, and that the problem is admitted to be a peculiar growth of modern fiction. Now, I can quite understand how a novel can cease to be popular, and at the same time become classic. The book undergoes a fate not unlike that which occasionally befell some Homeric hero who lost his life on the battle-field and disappeared for ever from the gaze of mortal men, but who was rewarded for his virtue and his valor by being turned into a demi-god and reverenced as such for evermore.

We know that the modern reader, as we find him in ordinary life, never thinks of reading Fielding, or perhaps even Walter Scott; that he has probably never heard of "Anastasius;" that he has never troubled himself even with an attempt to read Jane Austen's novels, and probably never saw a copy of Mrs. Inchbald's "Simple Story."

But then, it may be said, the authors of these books, if they still concern themselves with the affairs of earth, have the pride of knowing that they are regarded as demi-gods. Even those who never read Fielding, or Miss Austen, or Scott, or Mrs. Inchbald, are quite willing, whenever occasion calls for such an act, to render homage to the merits of these illustrious authors. The ordinary mortal would be rather slow to admit, in the presence of his intellectual superiors, that he knew nothing at all about the merits of the authors whom they agreed to regard as classic, and therefore he mumbles his tribute of respect to the great departed and he goes back to his Marie Corelli and his Guy Boothby. But I confess to a great feeling of regret and a great impulse to remonstrance on account of the fate of the authors who have just missed becoming classic and have in consequence become declassed.

I feel, however, that I have been wandering from the lines of

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my original purpose, which was to deal with the authors who are disappearing, and that I am now going out of my way to lament over some of the authors who have actually disappeared. I do not think there is among English-speaking races so great a desire to hurry the departure of the disappearing authors as there is in France.

In the literary France of the present day I am assured, on competent authority, that there is a positive eagerness to "speed the parting guest" in that sense, and an almost virulent impulse to get rid of him once for all, and fill his place with some one new. In the present anxiety for novelty, which prevails, I am told, in France, the next thing that happens, after a man has obtained a settled reputation, is that the critics pronounce him to belong already to the old school, and say that he had better cease to lag superfluous on the stage. There would seem to be three stages in the career of a French literary man, according to this account—first, the striving after a reputation; second, the reputation achieved, and, third, the intimation that he has done his work and that the world wants no more of him. Of course, I do not suppose, for a moment, that this impatience of the older school and tumultuous welcome of any newer school applies to the really great minds in any department of letters. Balzac and Victor Hugo, I presume, do not grow old. The growing intolerance of authors who belong to an older epoch, asserts itself, I take it for granted, only against the class I have been venturing to describe as disappearing authors.

But among English-speaking readers and writers, public and critics alike, there is, I think, no such desire to be rid of our old friends, and to give their places to newer comers.

English and American writers have not, in general, the same ardent desire to form themselves into schools that the observant world has noticed among the literary men and women of France. Now and then, of course, such a fashion does arise, and the consequent phenomena present themselves, as in the case of the æsthetic school in England and the Boston school in America. Whenever a school of literature is ostentatiously set up it is certain, almost in the nature of things, that there will sooner or later be a revolt against the authority of that school, and men with ideas which profess to be newer will claim a right to take the place of their elders. In this way, perhaps, it comes to pass that in France there

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is so marked an anxiety to let the seniors feel that the time has come for them to take a back seat, and allow the new men to come to the front.

But I do not think that such is the feeling with which in England and America we regard our disappearing authors. We do not want them to disappear, we are not always conscious that they are disappearing, we might perhaps entreat some of them to stay with us if we knew that they were taking their departure; but we do not notice their going at the time, and after a while we become conscious that they are gone.

I have been writing of novelists; but I think my observations will apply equally to authors in any department of literary art. Everybody must have observed, or at any rate may have observed, that there are authors of histories, authors of essays, authors of plays, authors of scientific books, who were very popular some time ago, and are now beginning to fade out of the world's notice without giving any indication that they are likely, by any reaction of enthusiasm in the public mind, to be exalted into the Elysian fields of the classics.

A poet who was not very long ago popular in England, and whom I knew personally as well as in his poems, complained in verse that we are apt to "honor overmuch the mighty dead, and dispirit living merit, heaping scorn upon its head." I certainly do not think that such a charge could be fairly sustained against England or America, and I think the present tendency in France is decidedly the other way—to honor too little the mighty dead, and to make a great deal too much fuss about living merit. I have sometimes wondered how a disappearing author, if he were conscious that he had outlived his popularity, would accept the recognition of the fact.

Would he take it in the spirit of an ancient philosopher—at least as the ancient philosophers are declared by their admiring disciples to have taken discouraging decrees of fate?

Would it be comfort enough for him to know that he had had his day?

I suppose it would depend in very large measure on the temperament rather than upon the philosophy of the disappearing author. I should think Anthony Trollope would have taken it composedly enough, and that Charles Reade, if he could have been convinced by any power of evidence that such a fate was awaiting

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him, would have stormed against the destinies and anathematized the upcoming generation which was to permit of his disappearance. There are two consoling reflections for those who are disposed, as I am, to muse in melancholy fashion over the disappearing author. The first is that, in most cases, the author thus doomed, may not have the least suspicion that he is disappearing, and the second is that, in the rare cases where he has such a suspicion, he may get it firmly into his mind that he is only disappearing from mortal sight to become a demi-god, that he is only vanishing from the classes to become a classic.

JUSTIN MCCARTHY.

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ARE HOMOGENEOUS DIVORCE LAWS IN ALL THE STATES DESIRABLE?

BY ELIZABETH CADY STANTON.

THERE has been much discussion of late in regard to the necessity for an entire revision of the laws on divorce. For this purpose the State proposes a committee of learned judges, the Church another of distinguished bishops, to frame a national law which shall be endorsed by both Church and State. Though women are as deeply interested as men in this question, there is no suggestion that women shall be represented on either committee. Hence the importance of some expressions of their opinions before any changes are made. As judges and bishops are proverbially conservative, their tendency would be to make the laws in the free States more restrictive than they now are, and thus render it more difficult for wives to escape from unhappy marriages.

The States which have liberal divorce laws are to women what Canada was to the slaves before Emancipation. The applicants for divorce are chiefly women, as Naquet's bill, which passed the Chamber of Deputies of France a few years ago, abundantly proves. In the first year there were three thousand applications, the greater number being from women.

Unhappy husbands have many ways of mitigating their miseries which are not open to wives, who are financial dependents and burdened with children. Husbands can leave the country and invest their property in foreign lands. Laws affect only those who respect and obey them. Laws made to restrain unprincipled men fall with crushing weight on women. A young woman with property of her own can now easily free herself from an unworthy husband by spending a year in a free State, and in due time she can marry again.

Because an inexperienced girl has made a mistake, partly, in many cases, through the bad counsel of her advisers, shall she be

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denied the right to marry again? We can trace the icy fingers of the Canon law in all our most sacred relations. Through the evil influences of that law, the Church holds the key to the situation, and is determined to keep it. At the recent Triennial Episcopal Convention held in Washington, D. C., bishops, with closed doors, discussed the questions of marriage and divorce *ad libitum*, a large majority of the bishops being in favor of the most restrictive canons; and, though an auxiliary convention was held at the same time, composed of 1,500 women, members of the Episcopal Church, they had no part in the discussion, covering a dozen or more canon laws.

A recent writer on this subject says:

"There is no doubt that the sentiment in the Episcopal Church, at least among the clergy, is strongly in favor of the Church setting its face firmly against divorce. An evidence of this is the circulation of a petition to the convention requesting that it adopt some stringent rule for this purpose, which has already received the signatures of about two thousand of the clergy. The proposition to adopt a stringent canon received the undivided support of the High Church ministers, and finds many supporters in the Low Church."

The question of marriage and divorce, and the attitude the Church should take toward divorced persons who wish to marry again, has been up before many General Conventions. The attitude of the Episcopal Church has always been strongly against divorce, and particularly against the marriage of divorced persons. The Catholic Church takes a still narrower ground, positively declining to recognize such an institution as divorce.

As early as the year 1009, it was enacted by the Church authorities of England that a Christian should never marry a divorced woman. Down to 1857, it was necessary that a private act of Parliament should be passed in order that a divorce could be obtained. In 1857, the State took action looking toward the granting of divorces by the courts without the interposition of Parliament, but this action has not been sanctioned by the Church of England. Hence has arisen a peculiar state of affairs in England, which has led to considerable confusion. The Church forbids the marriage of either party, except of the innocent parties in cases where the cause is adultery. But as the State permits the marriage of divorced parties, the ministers of the Church of England were put in an awkward position. As ministers of the Church, they were forbidden to marry these persons, but as the Church is allied

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to the State, and to a certain extent subject to it, a number of them believed it their civil duty to perform such marriages, and they performed them in violation of the canonical law. The agitation over this question has attracted a great deal of attention during the last few years, and is looked upon as being one of the most powerful causes which may lead to the disestablishment of the Church of England.

Marriage should be regarded as a civil contract, entirely under the jurisdiction of the State. The less latitude the Church has in our temporal affairs, the better.

Lord Brougham says:

"Before women can have any justice by the laws of England, there must be a total reconstruction of the whole marriage system; for any attempt to amend it would prove useless. The great charter in establishing the supremacy of law over prerogative, provided only for justice between man and man; for women nothing was left but common law, accumulations and modifications of original Gothic and Roman heathenism, which no amount of filtration through ecclesiastical courts could change into Christian laws. They are declared unworthy of a Christian people by great jurists; still, they remain unchanged."

There is a demand just now for an amendment to the United States Constitution that shall make the laws of marriage and divorce the same in all the States of the Union. As the suggestion comes uniformly from those who consider the present divorce laws too liberal, we may infer that the proposed national law is to place the whole question on the narrowest basis, rendering null and void the laws that have been passed in a broader spirit, according to the needs and experiences of certain sections of the sovereign people. And here let us bear in mind that the widest possible law would not make divorce obligatory on any one, while a restricted law, on the contrary, would compel many, who married, perhaps, under more liberal laws, to remain in uncongenial relations.

As we are still in the experimental stage on this question, we are not qualified to make a law that would work satisfactorily over so vast an area as our boundaries now embrace. I see no evidence in what has been published on this question, of late, by statesmen, ecclesiasts, lawyers and judges, that any of them have thought sufficiently on the subject to prepare a well-digested code, or a comprehensive amendment to the National Constitution. Some view marriage as a civil contract, though not governed by the

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laws of other contracts; some view it as a religious ordinance—a sacrament; some think it a relation to be regulated by the State, others by the Church, and still others think it should be left wholly to the individual. With this divergence of opinion among our leading minds, it is quite evident that we are not prepared for a national law.

Local self-government more readily permits of experiments on mooted questions, which are the outcome of the needs and convictions of the community. The smaller the area over which legislation extends, the more pliable are the laws. By leaving the States free to experiment in their local affairs we can judge of the working of different laws under varying circumstances, and thus learn their comparative merits. The progress education has made in America is due to the fact that we have left our system of public instruction in the hands of local authorities. How different would be the solution of the great educational question of manual labor in the schools, if the matter had to be settled at Washington!

From these considerations, our wisest course seems to be to leave these questions wholly to the civil rather than to the canon law, to the jurisdiction of the several States rather than to the nation.

As many of our leading ecclesiastics and statesmen are discussing this question, it is surprising that women, who are equally happy or miserable in these relations, manifest so little interest in the pending proposition, and especially as it is not to their interest to have an amendment to the national Constitution establishing a uniform law. In making any contract, the parties are supposed to have an equal knowledge of the situation, and an equal voice in the agreement. This has never been the case with the contract of marriage. Women are, and always have been, totally ignorant of the provisions of the canon and civil laws, which men have made and administered, and then, to impress woman's religious nature with the sacredness of this one-sided contract, they claim that all these heterogeneous relations called marriage are made by God, appealing to that passage of Scripture, "What God hath joined together, let no man put asunder."

Now, let me substitute the natural laws for God. When two beings contract, the State has the right to ask the question, Are the parties of proper age, and have they sufficient judgment to make so important a contract? And the State should have the

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power to dissolve the contract if any incongruities arise, or any deception has been practiced, just as it has the power to cancel the purchase of a horse, if he is found to be blind in one eye, balks when he should go, or has a beautiful false tail, skillfully adjusted, which was the chief attraction to the purchaser.

You must remember that the reading of the marriage service does not signify that God hath joined the couple together. That is not so. Only those marriages that are harmonious, where the parties are really companions for each other, are in the highest sense made by God. But what shall we say of that large class of men and women who marry for wealth, position, mere sensual gratification, without any real attraction or religious sense of loyalty toward one another. You might as well talk of the same code of regulations for honest, law-abiding citizens, and for criminals in our State prisons, as for these two classes. The former are a law to themselves; they need no iron chains to hold them together. The other class having no respect for law whatever, will defy all constitutional provisions. The time has come when the logic of facts is more conclusive than the deductions of theology.

It is a principle of the common law of England that marriage is a civil contract, and the same law has been acknowledged by statutes in several of our American States; and in the absence of expressed statute to the contrary, the common law of England is deemed the common law of our country.

Questions involved in marriage and divorce should be, in the churches, matters of doctrinal teaching and discipline only; and, after having discussed for centuries the question as to what the Bible teaches concerning divorce, without arriving at any settled conclusion, they should agree somewhat among themselves before they attempt to dictate State legislation on the subject. It simplifies this question to eliminate the pretensions of the Church and the Bible as to its regulation. As the Bible sanctions divorce and polygamy, in the practice of the chosen people, and is full of contradictions, and the canon law has been pliable in the hands of ecclesiastics, enforced or set aside at the behests of kings and nobles, it would simplify the discussion to confine it wholly to the civil law, regarding divorce as a State question.

ELIZABETH CADY STANTON.

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"DAVID HARUM:" A REVIEW.

BY JOHN OLIVER HOBBES.

In the course of a conversation with regard to the complete interest and sympathy felt by all Americans for the novel "David Harum," it was said that no book, no play, no poem, could be written in England, by any existing or conceivable author, which in subject, sentiment and style would attract the allegiance of every class. A welcome subject, for instance, might be treated with such vulgar intention, it might betray such insincerity, or such ignoble lack of restraint in its very workmanship, that all educated minds would find it degraded. Again, sentiments of universally admitted force and beauty might be expressed in language so meagre, so brutal, or so tame, that, but for an accident or a miracle, they would not obtain a hearing. On the other hand, some unfamiliar or forbidding theme, though handled with that knowledge and faithfulness given only by the supreme masters, would reach a few only and be utterly rejected by the common run.

So far as great art is concerned, this last rule—for it is a rule—would hold good in any civilized community. Many productions of genius are neither amusing nor at first sight attractive, nor immediately delightful—and least of all to the impatient, innumerable majority who have nothing themselves to bring toward the understanding of unusual things. Talent is winning, gracious, flattering and companionable; genius is commanding, moody, irritable, irritating, often detested, always feared.

It may be that Cardinal Newman in one hymn, "Lead, Kindly Light," and Charles Dickens in "David Copperfield," most nearly accomplished a feat which has now become impossible to other English literary powers of the first rank. They reached the heart, as it is called, of the nation, and they reached it with lines, in the one case, of the utmost grace and purity, and by a book, in the

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other case, which showed its author at his highest. Each man of gifts nowadays in England has his own particular following or *clientèle;* it may well be a very large one—thirty, forty, fifty thousand strong, and the like. He gets a "party" which is animated, probably against his will, by a political spirit. Admirers of A. cannot hear one word of praise concerning B.; any tolerance, any excuse, one might say, for B. makes the gorge rise in every throat of A.'s devoted band. X., of a newer school, stands apart with his agent. A. and B. themselves may be close friends, they may even admire the audacities of X.—this has nothing to do with their loyal admirers. It is held that A. can only be what he is by proving, somehow, that B. is absurdly overrated; B.'s position, in both worlds and even in intermediate space, depended, one would indeed suppose, on the utter annihilation of A. X. is sometimes treated to patronage by the malcontents among the A.'s and B.'s—the situation resolves itself into a good-natured civil war.* Nobody minds what is said; nobody means, probably, half of the hard things, or all the soft things, he may say under the stress of polemical emotion. A pleasant, wholesome animosity is kept up: no writer—worth his salt—could, or would, object to this sensible, human state of things. It must work out ultimately—to use the consoling expression of St. Ignatius—"for the greater glory of God."

We are considering now, however, not glory, but the taste of a huge multitude, and it would not be presumptuous to say, well remembering the magnificent ability of certain English authors of the present day, that not one could create a character which would win the whole English population as David Harum has won the American public. The reason is plain. With so many class distinctions, a national figure is out of the question. A national hero—yes; but a man for "winterin' and summerin' with"—no. Social equality and independence of thought, in spite of all abortive attempts to introduce the manners and traditions of feudal Europe, are in the very air of the United States. One could not find an American man or woman of the true stock who had not known intimately, or who did not count among his or her ancestors, connections, relatives, a David Harum. The type, no

* As an example of this curious partisanship, the reader has only to be reminded of the illiterate abuse heaped, in early days, upon the work of Robert Browning by those who imagined they best exhibited their intellectual capacity for appreciating Lord Tennyson, in these crude discourtesies toward one of the greatest minds of this century.

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doubt, is getting old: becoming more and more "removed" from the younger generation. In the course of the next twenty years it may become so changed as to seem extinct, but it is a national figure—certainly the most original, probably the purest in blood. And the spirit of Harum is the undying spirit—no matter how much modified it may eventually become by refinement, travel and foreign influence—of the American people. Individuals may change, but the point of view remains unalterable.

Now, there is no Englishman who could be, by any showing, everybody's cousin, or, for that matter, everybody's friend. Tommy Atkins at the present moment is monopolizing—and most properly—the public attention, yet he never strikes any two "sets" in precisely the same light. The Pauline sympathy which can make one "all things to all men" is not an English gift; it is left out of the educational training. Where the English can understand quickly, their kindness is unsurpassable, but where a new view, an uncongenial opinion, or an odd manner makes the least strain upon their ordinary habits of thought, they are apt to be impatient, even harsh. And the harshness lasts until their constitutional love of fair play is actually appealed to. Then one may expect justice. But justice is still not sympathy. Thus John Bull himself is an outsider everywhere. The quest of John Bull would be in no place so hopeless as in the British Isles. He is mentioned, he is drawn; words are put into his mouth by witty caricaturists, but the voice is the voice of a party, not a race, and John's sentiments are those of the most popular statesman of the week. A novel, therefore, about that unknowable abstract would prove a bewildering bore. People would ask each other: "What does it mean?" and they would complain of the chief character's inconsistency. The unparalleled truth and satire of Thackeray were not, and never will be, popular in the widest sense. He described a large class—too dull to appreciate him—for a comparatively small class who could recognize his brilliant fidelity in portraiture. He has the admiration of all Europe and America; he is understood by a fraction, relatively, of his own countrymen.

The novel, "David Harum," is no example at all of literary skill, regarded as skill. It is the manly, straightforward, conversational style of narrative which we find in reminiscences or biographies by politicians, soldiers, diplomatists and professional men generally. Effects are neither aimed at nor made; technique,

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and the art which hides it, have no part in this eminently unpretending, very able book. Why, then, it might be asked, is it not artistic? There is no worse error going than the supposition that, because a story is moving, or vivid, or interesting, it has the further rare quality of inspired workmanship. The mere pathos of real life as told by the police court reporter will bring tears to one's eyes; the chatter round a dinner table is certainly more interesting to most people than Dante; many will sob over melodramas and sit unmoved, outwardly, through "King Lear." A factor in "David Harum's" success lies much in the popular grace that it leaves nothing to the imagination; this high uncommon faculty is not displayed by the author nor exacted from the reader. It is as a letter from a friend who has escaped the self-criticism, and therefore reserve, which is the inevitable result of the artist's daily portion—the severe constant discipline of eye, heart and brain. Harum himself is not the solitary life-like figure of the book. We have his sister, Polly Bixbee, John Lenox, his manager, the young American girl, Mary Blake, highly intelligent, noble in impulse, a little cold from the English standpoint. Each of these deserves a careful study, because they are honestly drawn, without mannerism, exaggeration, prejudice, or the pedantry of a professional "psychologist."

David Harum is a country banker, the ninth son of a small farmer; the air of his home circle "wa'n't cal'klated to raise heroes in; and when the old man wa'n't cuffin' David's ears, he was lickin' him with a rawhide or a strap." He had but four years' schooling; at six "he had to work reg'lar on the farm for anything he had strength fer, and more too;" at fourteen he ran away from home forever. At this point his career becomes characteristically mysterious; we hear that at seventeen he was helping a lock-tender on the Erie Canal, and "trading," privately, in the "hoss bus'nis," by which he purchased a "towing concern." This he sold at a profit when he was one-and-twenty, "quitted the canal fer good and went inter other things"—not specified.

When we first meet him he is one of the richest men in Homeville, Freeland County, living with his elderly stepsister, the widow of "about as poor a shack as ever was turned out." David and Mrs. Bixbee are not troubled by social aspirations; and let us hasten to mention, as one among many proofs of the author's sound observation, that they never have them. David may wonder,

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with a certain grim humor, why his neighbors, of equally humble origin, who "belong to the Episcopal Church," regard him as one of the "village folk;" but his own plan of life never changes, his own self-respect is never sunk in any abject pretensions to "aristocratic beginnings." He wears one "suit" all day, he has several "helpings" of turkey at Christmas, he "don't cut no figger at all," and he does not "set up fer shapes." In spite of his garrulity and his tendency to indulge in "meemoores," it is not until we reach the concluding chapters that we learn he had married a widow who kept a boarding house. His own account of the courtship of the "good-lookin' woman, some older 'n he was," of his "beauin' her round quite consid'able," of her later causeless jealousies (she was jealous of "wooden Injun women outside cigar stores"), their unhappiness, her tragical, grotesque death, and the death, later, of their son, must be counted as the most pathetic and powerful passage in the book.

But where David is typical of the whole American race is in his love of a joke, even at his own expense, in his keen appreciation of an enemy's shrewdness or good points, in his generosity ("I'm alwus willin' to let the other feller make a little"), and in his delight in somewhat stagey romance. In illustration of this, we need only refer to the episode of the Widow Cullom and her "morgidge"—which, beginning with a cruel threat, is worked up into an astonishing kindness—as an accumulation of "int'rist" on an old silver dime once given, by the late "Billy P. Cullom," to David when he was a friendless truant. In a novel of the commonplace type, this particular incident would have been condemned as artificial, with more than a touch, too, of the old-fashioned Sunday-school tract to make it acutely unreal. But here we are shown the very effect of the tract on a mind naturally chivalrous, following the best ideal, on the whole, it has been able to find. The actual trick is, beyond doubt, rough—even humiliating. A more enlightened courtesy would shrink from the idea of calling an aged, impoverished, heart-broken, ill-fed, ill-clad gentlewoman through the snows on a Christmas morning to be badgered, harrowed, threatened, and finally rewarded (above all, in the presence of a witness) merely for the gratification of a personal joy in happy surprises. Yet we feel—as the widow herself felt—that David's soul was kind. When she says, between her tears, "David, I can't thank ye 's I ought ter—I don't know how—but I'll pray

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for ye night and mornin' 's long 's I got breath. . . . Dave Harum, you ought to 'a' be'n a king!" we know that she is in earnest. And when Harum replies, with a grin, "Wa'al, I don't know much about the kingin' bus'nis. I guess a cloth cap 'n' a hoss whip 's more 'n my line," we recognize the bluff self-knowledge and good sense of a genuine republican.

The religious sentiment in Dave comes out only in his liking for Moody and Sankey's hymns. He owns that, in his time, he has been "more or less a very reg'lar church-goer," but sermons seem long to him, and he "reckons it's a sight easier to have faith on meat and potatoes 'n it is on cornmeal mush." He agrees with the Widow Cullom, who confesses: "I haven't be'n to meetin' fer a long spell 'cause I hain't had no fit clo'es, but I remember most of the preachin' I've set under either dwelt on the wrath to come, or else on the Lord's doin' all things well, and providin'."

Harum's early philosophy in the matter of a runaway visit to a circus gives the key of his human wisdom. "I had the all-firedest lickin' ahead of me 't I'd ever got, but I had grit enough to allow 't was wuth it, an' off I put. . . . 'T was the only enjoy'ble day I'd ever had in my hull life, and I hain't never fergot it. I got over the lickin' in course of time, but I've be'n enjoyin' that cirkis for forty years. . . . 'S I look back, it ain't the money 't I've spent fer the good times 't I've had, 't I regret, it's the good times 't I might 's well 've had, and didn't." One feels that there was little pleasure or even ordinary happiness, as we define it now, in Harum's experience.

"Mis' Perkins is ailin' some," he remarks to his sister.

"They do say," put in Mrs. Bixbee, "thet Mis' Perkins don't hev much of a time."

"*Guess she hez all the time the' is,*" answered David.

John Knox Lenox, the son of a New York stock broker, a young man educated at Andover and Princeton, a student in Germany and France, makes an excellent and true contrast to old Harum. Lenox is self-reliant, reserved, faithful in love if not especially passionate in his expression of it. With much delicacy we are led to see the gradual wearing away of his health and spirits under the silent anguish of an unhappy attachment. He utters no complaint; he will not even admit to himself that he is "in love;" but the "nabobs" of Homeville vainly "rope him in" for their "social evenings." All in vain do Miss Clara and Miss Juliet Verjoos

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praise his fine voice and find him "a welcome addition" to their set. Once David finds the courage to ask him:

"Did you ever think of gettin' married?"

"Well," said Lenox, with a little hesitation, *"I don't remember that I ever did, very definitely."*

"Somebody 't you knew 'fore you come up here?" said David, jumping at a conclusion.

"Yes," said John.

"Wouldn't she have ye?" queried David, who stuck at no trifles when in pursuit of information.

John laughed. "I never asked her," he replied. . . .

"An' didn't you never get no note, nor message, nor word of any kind?" asked David.

"No."

"Nor hain't ever heard a word about her f'm that day to this?"

"No."

"Nor hain't ever tried to?"

"No," said John. "What would have been the use?"

"Prov'dence seemed to 've made a pretty clean sweep in your matters that spring, didn't it?"

"It seemed so to me," said John.

Nothing more was said for a minute or two. At last Harum said:

"You be'n here most five years."

"Very nearly," John replied.

"Be'n pretty contented, on the hull?"

"I have grown to be," said John. . . . "I remember my former life as if it were something I have read in a book. There was a John Lenox in it, but he seems to me sometimes more like a character in a story than myself."

"An' yet," said David, turning toward him, "If you was to go back to it, this last five years 'd git to be that way to ye a good deal quicker. Don't ye think so?"

"Perhaps so," replied John. "Yes," he added, thoughtfully, *"it is possible."*

Volumes of careful analysis could not convey so well as this short dialogue the power of silent endurance coupled with caution which is so remarkable a trait in the American character. Scotch metaphysicians have taught no greater fear of self-deception than the Americans instinctively possess. They have a passion for

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square-dealing with their own consciences; no country is so free from the cant enveloping this, that and the other sentiment; each man thinks for himself, and endeavors, as a first duty, to understand himself. This frankness is brought out with peculiar force in the final scenes between Lenox and Mary Blake. They have not met for six years, nor corresponded, nor heard one word of each other. He supposes (owing to a mistake in the passenger-list) that she has married in the interval. They are on deck together, bound for Europe.

"Do you remember the last night I was at your house?" he asked.

"Yes," she said.

"Did you know that night what was in my heart to say to you?"

There was no answer.

"May I tell you now?" . . .

"Do you think you ought, or that I ought to listen to you?"

"I know," he exclaimed, "you think that as a married woman you should not listen, and that, knowing you to be one, I should not speak. If it were to ask anything of you, I would not. It is for the first and last time. . . . I have carried the words that were on my lips that night all these years in my heart. I know I can have no response—I expect none; but it cannot harm you if I tell you that I loved you then, and have——"

She put up her hand in protest.

"You must not go on, Mr. Lenox," she said, "and I must leave you."

"Are you very angry with me?" . . .

"Not so much as I ought to be," she answered; *"but you yourself have given the reason why you should not say such things, and why I should not listen, and why I ought to say good-night."*

"Ah yes," he said, bitterly, "of course you are right, and this is to be the end."

She turned and looked at him for a moment.

"You will never again speak to me as you have to-night, will you?" she asked.

"I should not have said what I did, had I not thought I should never see you again after to-morrow," said John, "and I am not likely to do that, am I?"

"If I could be sure," she said, hesitatingly, and as if to herself.

"Well," said John, eagerly. . . .

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"We expect to stay in Algiers about two months," she said.

Mary Blake is admirably drawn, but she is not instantaneously sympathetic. She seems rather hard, and perhaps a little priggish in the earlier chapters. Her conversations with Lenox are severe even in their lightest moments, yet we feel, nevertheless, that she is handsome, devoted, womanly, and without nonsense. We are not surprised at John's constancy; we have to share his admiration for her cheerfulness, her vigorous will, and her lack of vanity. She is a good friend "right along the line;" she resolves to keep "sentimentality on his part strictly in abeyance;" she is, by no means, thirsty for admiration, nor eager to marry, nor anxious to "have an influence" over some man.

"I fancy," said John, "that there has seldom been a great career in which some woman's help or influence was not a factor."

"Even granting that," she replied, "the career was the man's, after all, and the fame and visible reward. A man will sometimes say, 'I owe all my success to my wife, or my mother, or sister,' but he never really believes it, nor, in fact, does any one else. . . . Woman's influence is rather an overrated thing. Women like to feel that they have it, and men, in matters which they hold lightly, flatter them by yielding."

One could forgive a good deal of apparent coldness in a girl so modest, so sensible, and so free from petty feelings. When we are told that she and John were happy in their marriage, we believe it —which is more than we can say of most heroes and heroines of fiction.

It would be pleasant to quote the many quaint and pregnant sayings of David. One, at least, ought to be immortal: "A reasonable amount of fleas is good for a dog; they keep him f'm broodin' on bein' a dog." The book, however, owes its worth less to its humor, which is excellent, than to its humanity. There lies its real strength. Other works have been equally, and even more, entertaining; the novels of that very distinguished artist and man of letters, Mr. W. D. Howells, belong already to the literature of both worlds, and contain portraits of incomparable force. Bret Harte and Mr. Cable have drawn pictures and people which will live while romance can stir the hearts, or poetry lift up the souls of men. It may not be claimed that the author of "David Harum" takes his place beside writers of such high rank. But his book reflects a brave, independent, manly spirit, without fear, without

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affectation, honorable, just, grave, but not melancholy, seeing the laughter of things, yet never descending to that coarse levity which passes all too easily, in these days, for courage. And the American nation, quick to appreciate good mettle, have not missed the vision. Thus it happens that a story, with little plot, with no "purple patches," with no sensational appeals to the senses, to opinions, or to political feeling, has won, from the most highly cultivated minds down to the homeliest of village bodies, an affection which is as much stronger than mere popularity as a wheat field is better than the paper rose garlands of a street festival.

JOHN OLIVER HOBBES.

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THE END OF "AMERICANISM" IN FRANCE.

BY P. L. PÉCHENARD, RECTOR OF THE CATHOLIC UNIVERSITY OF PARIS.

THE question is put us from beyond the Atlantic as to what has become of Americanism in France, and we are requested to furnish detailed information about the state of the question, and above all, about the state of mind of our people on this subject.

Were we to yield only to an idle desire of appearing in print, and did we wish merely to feed the curiosity of American readers, it would be easy for us to fill out for their gratification a certain number of pages, and to display before their eyes the picture of the commotion excited among us by this question for the space of an entire year.

But if we take counsel chiefly of our love of peace and of our desire to advance the cause of religion, nothing appears to us preferable to silence, and nothing, in fact, answers better to the actual condition of minds in France. For after a period of lively discussion, calm was very quickly restored, and it seems now as though nothing could hereafter disturb it.

It is then chiefly this happy frame of mind of our fellow-countrymen that we are anxious to bear witness to, and which we should here wish to bring out into relief. For this fact once ascertained, it will become evident that any attempt hazarded with a view to prolonging the discussion would be superfluous and ill-timed, and would not find so much as an echo.

Only later on, when passions have cooled, and distance allows things to be arranged again with a proper regard to perspective, will it be possible to tell with certainty the history of this ferment of opinions and doctrines known under the name of "Americanism," and to appreciate it at its proper value. For although it has

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lived but a short time and has traversed our atmosphere like an aërolith, Americanism has had its history.

After a long period of incubation, during which it was silently taking shape in America and consisted in particular and isolated facts much more than in general theories, it passed over into Europe and burst forth suddenly into view upon the appearance of the French translation of the "Life of Father Hecker." It appeared then as a complete system, where were found all jumbled together opinions respecting dogma, discipline, Christian and religious life, and democratic and social doctrines. Its tendencies and its assertions filled Christian souls with trouble, upsetting as they did their ideas and habits, and at the same time awakened the attention and solicitude of the natural guardians of faith and morals.

These opinions and doctrines were advanced as new, and as representing a step forward beyond the past and satisfying a need of modern times. Yet they were not as new as we were asked to believe; they were rather repeated from past ages. For as early as the sixteenth century, St. Ignatius, in his "Spiritual Exercises," had pointed them out to his religious brethren under the heading, *"Regulæ ad sentiendum vere in Ecclesia militante"*—rules for judging correctly in matter of doctrine in the Church militant; and it is scarcely two years since the venerable Archbishop of Paris in turn pointed them out to his clergy assembled for their pastoral retreat, by commenting upon this passage of the "Spiritual Exercises."

While minds grew heated, some siding with, others against, these opinions, the Pope, with a promptness that belied all calculations, suddenly raised his voice and spoke as Supreme Pontiff. With admirable wisdom he disengaged the elements of this nebula, pointed out to the world the new danger and censured what was deserving of censure. Once he had spoken, as the threatening cyclone falls back upon itself by the action of a cannon-shot fired in mid-ocean, so, beneath the influence of his word, the system of Americanism fell shattered, the waves remained agitated for a moment beneath the débris, and almost immediately calm was restored and silence ensued.

That before the decision of the Holy See there were in the course of this conflict of ideas ill-directed blows on one side and on the other; that personal views and even passion found their

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satisfaction simultaneously with an unselfish concern for truth and virtue; that sometimes a general thesis has been made out of what in the mind of its author was intended only as a statement of a particular fact, all this seems to us unquestionable. But why should we be surprised at this? It is so easy for human passion to transform itself into zeal for the law! And besides, when the objects at stake in a contest are the truths of religion, the authority of the Church and the practices on which the whole Christian life depends, it is easy to conceive how this zeal, however pure and sincere, becomes excited little by little, and runs the risk of appearing very much like sharpness. Were not the Apostles animated by a sincere zeal when they asked Jesus to cause fire from heaven to fall upon those who refused to listen to Him?

From a distance, one might imagine that the errors of Americanism had made great conquests in France. As a fact, however, they did no such thing. The partisans of Americanism—priests, simple faithful, writers, journalists, whether more or less conscious of the work they were doing, or only the mouthpiece and instrument of more powerful agents, who inspired them from afar—were very few in number.

Without wishing at all to belittle the danger to which these new doctrines exposed us—a danger which was real and serious, seeing that the Sovereign Pontiff judged it necessary to denounce it before the world and to condemn its source—we must be able to recognize, to the honor of the Church of France, that these errors, perhaps for want of time, reached only an imperceptible minority of the members of her clergy!

Now that we are congratulating ourselves on having escaped this danger, and now that we have a true notion of Americanism, thanks to the luminous exposition of its tenets as given by Leo XIII. in his letter to Cardinal Gibbons, it will be allowed us to call attention to the fact that even while stirring up for a moment the passions of men, as all noisy novelties are apt to do when they are as yet but ill-defined, this system clashed in reality with a state of mind, the fruit of a serious moral formation, which was bound to earn for it a vigorous resistance on the part of the French clergy, and that, if it had a momentary, apparent success, this was due mainly to the confusion it had created between its religious errors and certain democratic and social tendencies.

Taken, in fact, in its *ensemble*, Americanism implied a certain

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bending in the matter of dogmatic affirmation, a separatist tendency with respect to the central ecclesiastical authority, a claim to a larger individual independence, and a minimizing in the practices of the Christian, and especially the religious, life.

Now, from all these points of view it could not but have encountered, on the part of the French clergy almost universally, a firm and resolute opposition, resulting from their long education in opposite views.

First of all, to place one's self at the purely dogmatical point of view, the French clergy, without exception, is so attached to pure orthodoxy that there is no one among its members who thinks of attenuating or obscuring any of our dogmas.

Even the motive which might practically have led certain American priests to resort to a certain minimizing or a certain prudent silence does not exist in France. For if some members of the American clergy have considered that they might act with this sort of prudence, it was with a view to bringing back more easily into the bosom of the Church dissenting brethren with whom they are engaged in controversy. Now in France this need does not exist, as Catholics and Protestants live side by side without discussing doctrine, and there is for the time being no appreciable effort at proselytism on one side or on the other.

This tendency systematically to abandon dogma, to the advantage, so-called, of morality, to do away with the customs and duties separating the various creeds, to welcome everybody without distinction and without question as to his faith, in order to put an end to polemics and to unite all men as brethren on the ground of peace—this tendency may be discovered also in France, but without any reference to Americanism. Evidence, in fact, may be found of it in the rationalistic schools, which interest themselves in the philosophical movement and endeavor to accredit the theory of evolution even in the matter of religion. For such as are adepts in this theory, the Catholic faith itself obeys the law of evolution; it is one of the necessary but provisional stages in the march and development of the religious sentiment athwart the history of the human race. Gladly do they pass the sponge over all dogmatic formulas, and invite all men to meet upon the ground of religious sentiment and morality. But this minimizing or suppression of dogma, entirely rationalistic in its kind, has nothing to do with the doctrines styled Americanism. And

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besides, how small is the number of the champions of this theory!

If we take for our point of view that of obedience to ecclesiastical authority, chiefly the authority of the Holy See, Americanism had still less chance of success among us.

Whence, in fact, could this loosening of the bonds of subordination proceed? From a need of individual independence and a separatist tendency? But every one knows that it is precisely the contrary tendency, which for more than half a century has been the characteristic attitude of the Church of France with respect to the Holy See.

In the last century, Gallicanism had lessened the authority of the Pope in favor of the authority of the King; parliamentary Jansenism arrayed itself against the teachings and directions emanating from Rome. The Church of France in consequence sank beneath the sway of these fatal influences into a particularism that separated her little by little from the centre of unity and led her on to her ruin.

But in our age she opened her eyes, recognized her danger, and faced about completely. After casting forth the poison of Jansenism and Gallicanism, she turned resolutely toward Rome, and by a liturgical and disciplinary revolution without precedent she reestablished herself in the closest communion with the centre of Catholicity, welcomed with affection the definition of the Vatican Council on the subject of papal infallibility, and has ever since gone to seek through her bishops, her priests and her faithful, counsel and guidance from the Roman Church and from her august head.

How can we suppose that a clergy with such dispositions of close union and filial obedience toward the authority of the Roman Church, the mother and mistress of all the other Churches, could have seriously welcomed new tendencies whose spirit was altogether opposed to their own? Could they, without open contradiction, have stretched forth their hand to those who claimed a less degree of dependence with respect to the teaching authority of the Church, and a wider liberty of ideas and of individual action?

As regards the rules of Christian life and the forms of religious life, particularly the vows of religion, the French clergy felt the need of innovation quite as little, and were not consequently disposed to favor the new ideas. If, in fact, they proclaim, with all the great mystics, that the Holy Ghost exercises a direct action

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upon souls, and that He "breatheth where He listeth," they recognize no less the need of guarding against the illusions of illuminism, and of submitting one's individual inspirations to the control of lawful authority. They are thoroughly convinced that "Christ does not change," that there has been no discovery of new and easier means of sanctification, and that we must always come back to the narrow way preached by the Gospel, to detachment from riches, renunciation of self, the mortification of the flesh and the spirit, the practice of humility and obedience and the daily carrying of one's cross.

Apart from these excellent dispositions, which the French clergy inherit from their education and which might have enabled them to cope successfully with the new danger, they had moreover the good fortune of being wisely warned.

Upon the appearance of the French translation of the "Life of Father Hecker," it was speedily denounced to the public as the embodiment of the new ideas. Ardent polemical writers unmasked its errors one by one, and then combining them into a whole presented them in a series of striking pictures. With much learning they reduced to a system the numerous errors of detail, sown here and there by the partisans of Americanism, in their writings or their discourses, and of which the public was scarcely in a position to detect the common bond. It may be that they also introduced certain opinions or practices more or less foreign to the matter in dispute, and thus prepared a subterfuge for those who later refused to be responsible for all the doctrines imputed to them, and which it was attempted to comprise in their system.

There are only two aspects under which the system of Americanism might more easily have insinuated itself, and which rendered it more attractive and more dangerous for the young French clergy. The first aspect is that of its democratic and social ideas, which are every day gaining ground, and which produce a great effect on the minds of certain young priests, because they seem to them likely to give more ready satisfaction to their ardent love for the lowly and the little ones. The second is the glitter of that natural activity and that personal initiative which French writers have chosen to applaud in the Anglo-Saxon races, and which it is now the fashion among us to wish to copy, as though the French had hitherto been deficient in these qualities.

If this twofold point of view has nothing in common with

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religious theories, it was calculated, nevertheless, to serve them as a vehicle and passport, thanks especially to the obscurity which, at the outset and for most people, hovered over the system as a whole. But these same motives, which served as a recommendation in the eyes of some, helped to discredit it and to render it still more suspicious in the eyes of others; animated as they were by opposite sentiments on political and social questions, they only conceived a more lively aversion for it.

Once the disputes began, they soon became embittered. The agitation was all the more lively that it was felt that grave interests were involved in a question the full bearing of which was not yet well understood. Some writers, who had been able to grasp beforehand the import of the movement of ideas originating in America, pointed out to the public little by little the bold and dangerous propositions which they extracted from the "Life of Father Hecker," from the Introduction and Preface accompanying the French translation, and from the writings or discourses of the advocates of Americanism. But it was some time before the general public was alive to the situation in which it found itself amid this chaos where political and social matters were mixed up with questions of religion.

The French clergy therefore followed with lively attention the controversy waged beneath their eyes by a small number of writers. But it must be remarked that no important personage from among their ranks advocated the novelties, and that none espoused the cause of their upholders; so much so that undoubtedly within a few years not a name will survive of those who were involved in them.

The French episcopacy uniformly maintained the greatest reserve, listening, observing, but without committing themselves.

While noting the various errors comprised under the name of Americanism, according as they were pointed out to them, and while at the same time rejecting them, the French clergy appear to have seen in them only the expression of the views of a small group of Americans, bishops, priests and simple faithful, not of the American Church in its entirety; and they refused to admit the hypothesis, put forward by several, of a separatist plot or of a plan of campaign knowingly inaugurated and conducted against the Catholic Church. They awaited with respect and confidence the decision of the supreme head of the Church.

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That decision came, even more promptly than was expected. On the 23d of January, 1899, His Holiness Leo XIII. wrote to His Eminence Cardinal Gibbons the letter beginning *"Testem benevolentiæ,"* in which he exposed with great precision the different elements that might be included under the term Americanism. As far as by the word Americanism were understood the peculiar characteristics of the American people, their political constitution, laws and customs, the Pope declared that he had no reason for rejecting it. As far as by the word was to be understood a series of doctrines prejudicial to the integrity and maintenance of dogma, to the obedience due to the authority of the Church, to the sacredness of its discipline, and to the rules of Christian and religious life, he reprobated and condemned it with firmness, a firmness, however, tempered with sweetness and benevolence toward the people and Church of America, and he confirmed all the ancient rules of Christian piety.

As soon as the echo of this word of deliverance was heard, the French clergy uttered a cry of relief and of joy. Disturbed for a moment by those conflicts of contradictory opinions which are the consequence of a liberty to think and to write as one pleases, they welcomed with transports of joy the papal decision which had just dispelled all uncertainties and pointed out to each one the traditional path. It was marvellous how speedily calm was restored and silence ensued.

We could rejoice all the more securely, because with us the condemnation struck at no great reputation. The handful of priests who had been the agents and supporters of the condemned system were most eager to submit with absolute docility of mind and heart. The one who had most deeply compromised himself by the publication of the French translation of the "Life of Father Hecker," and by the Introduction which preceded it, the Abbé Klein, had allowed himself to be drawn into this course by an exaggerated admiration for the qualities of the Anglo-Saxon races. But once the Pope had spoken, he, as became a priest of sincere piety, made in the presence of His Eminence Cardinal Richard, Archbishop of Paris, an act of such filial and complete submission as to deserve the congratulations of Cardinal Rampolla.

After the pontifical utterance, the French episcopacy continued to maintain the same prudent reserve which they had previously observed. A few bishops only wrote brief letters to

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their clergy in order to communicate the document to them. Let us mention only Cardinal Richard, Archbishop of Paris, who expressed himself with as much moderation as propriety;* Mgr. Fuzet, Bishop of Beauvais, who, in a few pages, succeeded in showing clearly the poison that lay hid in the new doctrines, and the greatness of the service that the Pope had just rendered to the world by condemning them, and by pointing out to the faithful the safe path;† Mgr. Isoard, Bishop of Annecy, who, from Rome itself, where he happened to be, was the first of all to write to His Holiness to thank him for his letter to Cardinal Gibbons.

In a short while, the literature on the subject of Americanism, which had so violently attracted attention during the year 1898, entirely disappeared from the papers and reviews. Some rather acrimonious explanations were still exchanged between *l' Univers* and *la Vérité*, which passed from doctrines to persons, endeavoring to scrutinize the motives that had made them speak and act. Canon Delassus, of Cambrai, published a volume entitled "Americanism and the Anti-Christian Conspiracy," which had been composed before the appearance of the pontifical letter, and which perhaps the circumstances no longer called for.‡ M. l'Abbé Periès, formerly Professor at the Catholic University of Washington, contributed two articles to the *Revue Canonique* on the "Dissolution of Partnership of the Advocates of Americanism" (*La Liquidation du Consortium Américaniste*),§ in which he attempts to determine the share of responsibility that falls to each in this matter. The *Études Religieuses* of the Jesuit Fathers also published two articles on the question. But the public, enlightened by the pontifical letter, appeared to evince great weariness, and turned their eyes away.

A single incident, however, revived their attention for an instant and awakened some echo from without.

Great was the general surprise when, after the papal condemnation, the chief American supporters of these novelties were seen vying with each other in their reprobation of them and declaring with the greatest nonchalance that they had never had anything in common with them. But then what were the meaning and the purport of the pontifical decision? Could it be that it had

* Letter to the parish priests of the diocese of Paris, March 17, 1899.
† Letter to the clergy of the diocese of Beauvais, February 28, 1899.
‡ Lille, *Librairie St. Augustin*, 12mo. XXXIX., 450 pp.
§ *Revue Canonique*, Avril et Mai, 1899, Lamuelle et Poisson, 14, rue de Beaune.

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struck at phantoms and condemned *imaginary* errors, maintained by no one? That is what the people asked themselves.

A writer of great talent, editor of *La Quinzaine,* M. George Fonsegrive, undertook to solve the problem. He endeavored to show that the Americans had not really professed the errors as condemned by the Holy See; and that the most conspicuous among their prelates could write in all truthfulness, not "that they renounced their errors, but that they had never professed those which the Pope condemned."

There occur at times, he wrote, general misunderstandings of certain formulas taken by their author in one sense, and taken by the public in another. This happens and must happen above all when formulas are transplanted from one country to another, from one civilization to another, when they are enunciated by men of certain habits of mind, and when they are repeated by and to other men of totally different habits of mind.

"Now it will be easy to demonstrate that such is the case with the formulas of certain American writers or orators when they have been interpreted and understood by European intelligences. And I don't mean to say that that is the fault of the French translators or commentators; I believe rather that it is the fault of the readers themselves, a fault quite involuntary, and even unavoidable. . . . And the best proof that this is indeed the case is that so long as the books and discourses from which the Americanism that has been condemned was taken had not yet crossed the ocean, so long as they remained in the country that had given them birth, understood in their proper sense, they were accepted by everybody."*

The misfortune is that the eminent writer, in his desire to explain and to excuse, was led into error both in regard to the material facts and in regard to his philosophical theory, and, without meaning it, did the Holy See the cruel injustice of implying that it had condemned doctrinal errors which, in reality, had no existence, since they were undeserving of condemnation in their original authors, and in the translations were only an involuntarily incorrect rendering of the thought of another.

The attempted explanation was too unsatisfactory to pass unperceived, and too false not to be criticised. Scarcely had the number of *La Quinzaine* containing it appeared, when the Bishop of

* *La Quinzaine*, 1st April, 1899, "*Américanisme et Américains.*"

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Nancy, Mgr. Tweinaz, always on the watch like a careful sentinel, denounced to his clergy the article on "Americanism and Americans," and condemned it, in virtue of his episcopal authority, as erroneous and injurious to the Holy See. This condemnation caused a stir, but it was the death-stroke of Americanism in France—for since that time it has never lifted up its head.

Were the errors condemned by the Holy Father really professed in those terms in America? The fact is incontestable, and many bishops of that country have had no hesitation in recognizing it publicly.

We have first of all the testimony of Mgr. Corrigan, Archbishop of New York. Writing to the Holy Father on the 10th of March, 1899, in his own name and in that of the bishops of his province, he admires the wisdom with which His Holiness has succeeded in embodying in one document the *manifold and fallacious errors* which are put forward as sound Catholic doctrine under the specious title of Americanism. *

Recently, too, the bishops of the province of Milwaukee, in an address to the Sovereign Pontiff, recognized in the most explicit manner that the errors condemned by the Holy See have really been professed in America, and expressed their disapproval of the subterfuges to which certain Catholics resort in order to evade the condemnation.

"We cannot," they said, "suppress the grief and indignation we experience at the sight of the number of our fellow-countrymen, chiefly Catholic journalists, who declare indeed that they disapprove and reject the errors in question, yet who, after the manner of the Jansenists, are not afraid to reiterate them over and over again. Were we to take their word for it, scarcely any Americans have shared these errors, and the Holy See, misled by false reports, has only been beating the air, so to speak, and chasing a phantom.

"How far this way of acting does injustice to the infallible See, and how far it is at variance with a true spirit of faith, there is no sincere Catholic who does not perceive. It is certain that these erroneous opinions have been advanced among us by word of mouth and by the pen—not always, it is true, with the same degree of frankness—and on the other hand, whosoever is a true Catholic at heart cannot deny that the teaching power of the Church em-

* *Revue de Droit Canonique, No. de Mai*, 1899, p. 418.

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braces not only all revealed truths, but also all such facts as bear upon dogma, and that it belongs to her to pass judgment by an infallible sentence upon the objective sense of any doctrine whatever, as well as upon the reality of the errors." *

After the condemnation passed by Monseigneur the Bishop of Nancy upon the explanations of M. Fonsegrive, no one any longer undertook the defense of Americanism, whether in the French press or in the reviews, and at present there is no talk of it. The errors have been abandoned and the very term "Americanism" is in ill-repute.

In its political and economic significance, as an expression of the ways of action of the peoples of America, Americanism may have its partisans and its supporters; the letter of Leo XIII. has here no fault to find. But in its religious, dogmatic, disciplinary and mystic sense it is dead, beyond all hope of resurrection.

We have had, moreover, beneath our eyes quite recently a very characteristic sign of the actual disposition of French Catholics. Mgr. Ireland came to France last May to preach the panegyric on Joan of Arc in the Cathedral of Orleans. He afterward spent a long time at Paris, and traversed France in every direction; he appeared and spoke at a number of public meetings. His person, his activity, his zeal have been applauded; but on these occasions the question of Americanism was nowhere discussed. The illustrious prelate understood himself that he must say no more about it. The disavowal, moreover, which he had made of it in his letter to the Pope dispensed him from any explanation.

In conclusion, this passing storm, grave and menacing as it was, will at least have served to render manifest, in the sight of the whole world, the superiority of Catholicism, as a social religion, over all other Christian communities, and the providential importance of the part entrusted by our Lord Jesus Christ to His Vicar upon earth.

The storm was beginning to rumble, the waves were rising, a portion of the crew were filled with alarm. The sovereign Pontiff, like Jesus of old upon the Lake of Gennesaret, arose; he stretched forth his hand, he spoke one word and immediately there was a great calm. Rome has spoken, the case is settled, and, as we firmly hope, the error is at an end.

"Let us bless God," said Monseigneur the Bishop of Beauvais,

* Extract from the *Univers*, July 25, 1899.

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with good reason, "for having bestowed on us the grace of being born in a religious society with so strong an organization as the Catholic Church.

"As soon as a doctrine prejudicial to the integrity of the faith or to the rules of discipline makes its appearance anywhere, the successor of Peter interferes with authority to decide. He condemns what should be condemned, puts aside what should be put aside, and the Church continues her progress, always sure, always majestic, across shoals, and in the face of storms, without ever turning aside from the way of salvation.

"It is the action of the Roman Pontiff that maintains our beautiful and beneficent religious unity; it is that action which does not suffer it to be broken to pieces nor to be split up into a thousand opposite sects, as happens in the case of other societies which do not recognize the primacy of the Pope. Let us proclaim it aloud."*

P. L. PÉCHENARD.

* Mgr. Fuzet, Bishop of Beauvais, letter to his diocesan clergy, 28 February 1899.

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THE PRESIDENT'S WAR POWER AND AN IMPERIAL TARIFF.

BY THE HON. PERRY BELMONT, FORMERLY UNITED STATES MINISTER TO SPAIN.

THE result of the exercise by the President of what is known as "the war power" is daily becoming more evident. Heretofore "the United States" has embraced all the States, the District of Columbia and the Territories. The words "throughout the United States," which are used in the Constitution, have long been taken to mean "within the United States, or any place subject to their jurisdiction." That phrase is employed in the Thirteenth Amendment, but there is now an effort to regard "the United States" as confined to our forty-five States, and, although existing statutes have extended the Constitution over all our organized territories, there is a persistent attempt to place our newly acquired islands outside the United States and the "Union." If we can make a safe inference from the writings of their leading professors, even our universities and colleges are taking sides in the controversy; Harvard, Cornell and the University of Pennsylvania insisting that the Constitution protects only States, and that Congress is as supreme over our new islands as is the British Parliament over its colonies and dependencies, while Yale and Columbia take a different view.

The United States had outlying possessions described as territories when the treaty of peace was concluded with England. The Constitution provided for them. Later other outlying possessions came by cession from France, Spain, Mexico and Russia. All have been embraced by the words "United States." In 1853, the Supreme Court declared that "after the ratification of the Mexican treaty, California became a part of the United States." If the decision does not in principle

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cover our new islands, it must be because of the difference in the language of the two treaties of 1848 and 1898. The Mexican treaty declared: "The Mexicans who, in the territories aforesaid, shall not preserve the character of citizens of the Mexican Republic conformably with what is stipulated in the preceding article shall be incorporated into the Union of the United States, and be admitted at the proper time (to be judged of by the Congress of the United States) to the enjoyment of all rights of citizens of the United States, according to the principles of the Constitution." The recent Spanish treaty declared "the civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress." Has the recent treaty made the precedents set by the Supreme Court inapplicable to Puerto Rico and the Philippine Islands? The words "United States" have, as used in the Constitution, two meanings: one, the political corporation, the body politic, the Government now at Washington; the other refers to the States, the District of Columbia and the Territories. Since the inauguration of President McKinley there has been an enormous extension of Executive power. What went on during a previous administration while President and Congress were contending over the question of recognizing the insurgent Cubans as belligerents, may have accustomed the country to look on the Executive as a chief source of power in the Spanish question then impending.

During all the annoyances of the last half-century endured by the United States from Spain in Cuba, England has headed or united with the concert of Europe to resist our intervention. England warned President Grant against doing exactly what President McKinley did twenty-three years afterward. In 1898 England changed her policy, and when armed hostility against Spain began, the prerogative of our Executive known as the "war power" was brought into use which, as the President said in his recent annual message, only Congress can end, even after peace has returned. These were his words: "Until Congress shall have made known the formal expression of its will, I shall use the authority vested in me by the Constitution and the statutes to uphold the sovereignty of the United States in those distant islands, as in all other places where our flag rightfully floats." That adroit language has put on Congress the responsibility of continuing the supremacy of military rule.

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The President is always, in peace or in war, Commander-in-Chief of the Army and Navy, but when war exists there flows into his hands new powers and duties. Over what is embraced within a military occupation, or a conquest, the President is supreme. During the War of 1812 serious questions of "war power" on land did not arise. But during the Mexican War they did. Mr. Marcy, Secretary of War, ordered Colonel Kearny to occupy California and to organize a temporary military government. The treaty of peace with Mexico was proclaimed in 1848. Congress in 1849 extended the revenue laws over California. Owing to delays created by the slavery question, California was never organized as a Territory, and was finally admitted into the Union as a "State" in 1850. California had been governed under the President's "war power," but the *de facto* government then existing was continued till Congress legislated, and Marcy declared that the President will, "of course, exercise no powers inconsistent with the provisions of the Constitution of the United States, which is the supreme law for all the States and Territories of our Union." The exercise of such "war power" was then so novel that the Whig majority in the House bombarded the Executive with resolutions inquiring where the President obtained constitutional authority to govern California.

Excepting by the declaration of war against Spain, the voting of men and money therefor, the ratification of the treaty and appropriating twenty millions of dollars, Congress has had little to do with initiating and executing the policy which has resulted in the new problems referred to by the President in his Annual Message. The record of the written debates between the plenipotentiaries of the negotiating nations makes it indisputable that when the President executed the August Protocol, his judgment was in suspense regarding the future of the Philippines. There was ample time to convene the Senate, but the treaty was concluded by the President on his official responsibility. That was his prerogative right. He could not make a treaty binding on the United States till two-thirds of the Senators had consented to it, but it would not, under all the circumstances, have been easy for the Senate to reject the treaty with Spain which had been already signed. When it had been ratified the House was morally bound to vote an appropriation of the needed twenty millions. It may fairly be said that by sending to Paris as his plenipotentiaries three ex-

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perienced, able and trusted Senators, the President took the Senate into the negotiations. His plenipotentiaries must, in theory, obey him, even when they are Senators, and in voting as Senators on ratification, it is improbable that they would repudiate their own work as negotiators.

Those who now examine the official papers emanating from the President, to which publicity has been given, and which assign reasons for the Protocol of August, 1898, and for the treaty itself, must be impressed by the sterility of information therein contained. The Constitution has not been violated, but how omnipotent has been the Executive during nearly two years!

II.

The natives of the ceded islands were transferred to the United States without their consent, and a phrase in the Declaration of Independence is used as a ground for criticism of the treaty. Some modern treaties have contained stipulations for obtaining such consent; but, in general, the engagements in treaties of transfer have only gone so far as to give the inhabitants time and right to decide to remain in the ceded country, or to depart therefrom. Such engagements existed in the cessions to the United States by France, Spain and Mexico. The free white inhabitants remaining were to be citizens of the United States, and the territories ceded were to be, in due time, admitted into the Union as States, according to the principles of the Constitution. That was deemed a compliance with the requirement regarding "consent of the governed." The recent treaty with Spain was negotiated on a different basis, compelled probably by the conditions existing in the Philippine Archipelago. The Spanish plenipotentiaries insisted on a stipulation that the natives should, like those born in Spain, have a right to choose their nationality. In the twenty-first Protocol they appear as saying:

"The American Commission refuses to acknowledge the right of the inhabitants of the countries ceded or relinquished by Spain to choose the citizenship with which, up to the present, they have been clothed, and nevertheless this right of choosing, which is one of the most sacred rights of human beings, has been constantly respected since the day on which man was first emancipated from serfdom. This sacred right has been respected in treaties of territorial cession concluded in modern times."

To that the American plenipotentiaries replied:

"An analysis of this article will show that Spanish subjects, natives

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of Spain, are allowed a year's time in which, by the simple process of stating in a court of record their intention so to do, they may preserve their allegiance to Spain. Such persons have the fullest right to dispose of their property or remove from the territory, or, remaining, to continue to be Spanish subjects, or elect the nationality of the new territory. As to natives, their status and civil rights are left to Congress, which will enact laws to govern the ceded territory. This is no more than the assertion of the right of the governing power to control these important relations under the new Government. The Congress of a country which never has enacted laws to oppress or abridge the rights of residents within its domain, and whose laws permit the largest liberty consistent with the preservation of order and the protection of property, may safely be trusted not to depart from its well-settled practice in dealing with the inhabitants of these islands. It is true that the Spanish Commissioners propose an article on the subject of nationality supplementing the one offered by them as to nationality of Spanish subjects, which provides that all inhabitants of the ceded territory other than Spanish subjects shall have the right to choose the Spanish nationality within one year after the exchange of ratification of the treaty. This would permit all the uncivilized tribes which have not come under the jurisdiction of Spain, as well as foreign residents of the islands, to elect to create for themselves a nationality other than the one in control of territory, while enjoying the benefits and protection of the laws of the local sovereignty. This would create an anomalous condition of affairs leading to complications and discord important to avoid."

There is still a valid reason why Congress should execute the treaty in a way to give the natives the rights of "life, liberty and the pursuit of happiness," the treaty definitely excluding the exercise of the President's "war powers" in the determination of those civil rights. Halleck, in the chapter of his International Law on "The Rights of Complete Conquest," points the way. He says that the rule of public law with respect to the allegiance of the inhabitants of a conquered territory is no longer to be interpreted as absolutely unconditional, acquired by conquest or transfer, and handed over by treaty, as a thing assignable by contract and without the consent of the subject. If the inhabitants of the ceded territory choose to leave it on its transfer, they have, in general, the right to do so. He then quotes from a decision of Chief Justice Marshall:

"On the transfer of territory the relations of its inhabitants and the former sovereign are dissolved. The same act which transfers their country transfers the allegiance of *those who remain in it.*"

"This rule," Halleck says, "is the most just, reasonable and convenient which could be adopted. It is reasonable on the part of the conqueror who is entitled to know who become his subjects

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and who prefer to continue aliens; it is very convenient for those who wish to become the subjects of the new State; and it is not unjust toward those who determine not to become its subjects. According to this rule, *domicile*, as understood and defined in public law, determines the question of transfer of allegiance, or rather is the rule of evidence by which that question is to be decided."

III.

Under the Constitution, "no money shall be drawn from the Treasury, but in consequence of appropriations made by law, and a regular statement and account of the receipts and expenditures of all public money must be published from time to time." All money received by tax gatherers, or collectors of customs, must, in time of peace, be paid into the Treasury of the United States, and can only be expended by an appropriation by Congress, to be examined and certified by the proper accounting and auditing officers of the Treasury. The power to modify tariff laws was committed to Congress.

The danger of pressure by importers and tax payers upon the Executive was deemed too great to permit any discretion to be lodged there. Since April 11, 1899, and for some time before that, the power to levy duties on merchandise imported into our new islands, and internal taxes therein, has been exercised by the War Department, and the rates of those import duties and taxes varied to suit the pleasure of the Executive. Executive orders under the "war power" to that effect have been made applicable in Cuba, in Puerto Rico and in the Philippine Islands. The following is a sample:

"War Department, Washington.
"July 13th, 1898.

"The following Order of the President is published for the information and guidance of all concerned:

"Executive Mansion, July 12th, 1898.

"By virtue of the authority vested in me as Commander-in-Chief of the Army and Navy of the United States of America, I do hereby order and direct that upon the occupation and possession of any ports and places in the Philippine Islands by the forces of the United States, the following tariff of duties and taxes to be levied and collected as a military contribution, and regulations for the administration thereof shall take effect and be in force in the ports and places so occupied. Questions arising under said tariff and regulations shall be decided by the General in Command of the United States forces in those islands.

"Necessary and authorized expenses for the administration of said

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tariff and regulations shall be paid from the collections thereunder. Accurate accounts of collections and expenditures shall be kept and rendered to the Secretary of War.

(Signed) "William McKinley.

"Upon the occupation of any ports, or places, in the Philippine Islands by the forces of the United States the foregoing order will be proclaimed and enforced.

(Signed) "R. A. Alger, Secretary of War."

The Republican leaders are restive under the obligations imposed by the Constitution regarding duties to be levied in the ports of the United States on the American Continent upon imports from our new islands. Those who negotiated and ratified the treaty with Spain should have considered that. There is a way by which those who dread the effect upon certain voters of conceding free trade between the before-mentioned ports can perhaps avoid the anticipated political consequences to themselves. They might promote a suit which should carry the question to the Supreme Court for a prompt judgment. Unless the precedents in previous cases should be set aside, the result must be that absolute free trade has existed since April 11, 1899, and that such free trade cannot be prevented by Congress unless our new islands shall again become foreign territory, which is inadmissible.

IV.

There have been suggested these three ways of Congressional dealing with Puerto Rico and the Philippines:

First. A concession to the natives of powers of self-government and home rule, with independence more or less qualified under Congressional supervision.

Second. Ruling the islands as colonies in the way Great Britain rules her dependency, India, and her Crown colonies, on the theory of an unlimited power in Congress to govern them under the recent treaty as a peculiar estate outside the Constitution and the Union.

Third. Assimilation of the new islands to the conditions of New Mexico, for example, and governing them as our territories are now governed.

The first plan is sternly condemned by the President in his late Annual Message. He has not distinctly commended any other plan, but what he said plainly indicated his preference for a continuance of his "war power"—"belligerent right"—as he describes it.

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The second plan is the favorite of Republican leaders.

While the President is reticent, his present Secretary of War, appointed on account of his learning and wisdom in matters of Constitutional law, has, in his recent Annual Report, spoken definitely, clearly and concisely. The following is what he said:

"I assume, for I do not think that it can be successfully disputed, that (1) all acquisition of territory under this treaty was the exercise of a power which belonged to the United States, because it was a nation, and for that reason was endowed with the powers essential to national life, and (2) that the United States has all the powers in respect of the territory which it has thus acquired, and the inhabitants of that territory, which any nation in the world has in respect of territory which it has acquired; that (3) as between the people of the ceded islands and the United States the former are subject to the complete sovereignty of the latter, controlled by no legal limitations except those which may be found in the treaty of cession; that (4) the people of the islands have no right to have them treated as States, (5) or to have them treated as territories previously held by the United States have been treated, or (6) to assert a *legal* right under the provisions of the Constitution which was established for the people of the United States themselves, and to meet the conditions existing upon this continent, or to assert against the United States any legal right whatever not found in the treaty.

"(7) The people of the ceded islands have acquired a *moral* right to be treated by the United States in accordance with the underlying principles of justice and freedom, which we have declared in our Constitution, and which are the essential safeguards of every individual against the powers of government, not because those provisions were enacted for them, but because they are essential limitations inherent in the very existence of the American Government. To illustrate: (8) The people of Puerto Rico have not the right to demand that duties should be uniform as between Puerto Rico and the United States, because the provision of the Constitution prescribing uniformity of duties throughout the United States was not made for them, (9) but was a provision of expediency, solely adapted to the conditions existing in the United States upon the continent of North America; (10) but the people of Puerto Rico are entitled to demand that they shall not be deprived of life, liberty or property without due process of law, that private property shall not be taken for public use without compensation, that no law shall be passed impairing the obligation of contracts, etc., because our nation has declared these to be rights belonging to all men. (11) Observance of them is a part of the nature of our government. (12) It is impossible that there should be any delegation of power by the people of the United States to any legislative, executive, or judicial officer, which should carry the right to violate these rules toward any one anywhere; and there is an implied contract on the part of the people of the United States with every man who voluntarily submits himself or is submitted to our dominion that they shall be observed as between our government and him, and that in the exercise of the power conferred by the Constitution upon Congress, 'to dispose of and make all needful rules and regulations respecting

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the territory or other property belonging to the United States,' Congress will hold itself bound by those limitations which arise from the law of its own existence."

For convenience the foregoing has been divided by numerals.

In the debate over the purchase and government of Louisiana, every question of constitutional law was considered that has been presented by the acquisition of our new islands. Democrats argued that Federalists played upon words when they endeavored to discriminate between the *inherent* powers of a "nation" of States united, and the Government at Washington created by the Constitution.

A quarter of a century after the chaos of opinions over such arguments, the Supreme Court, by the luminous pen of Marshall, brought order out of disorder. He said of the inhabitants of Florida:

"They do not share in the government till Florida shall become a State. In the meantime, Florida continues to be a territory of the United States governed by virtue of that clause in the Constitution which empowers Congress '*to make all needful rules and regulations respecting the territory or other property belonging to the United States.*' Perhaps the powers governing a territory belonging to the United States which has not, by becoming a State, acquired the means of self-government, may result necessarily from the fact that it is not within the jurisdiction of any particular State, and is within the power and jurisdiction of the United States. The right to govern may be the inevitable consequence of the right to acquire territory. Whichever may be the source whence the power is derived, the possession of it is unquestioned."

As to Secretary Root's first proposition, it is not to be denied that our treaty-making power could and did acquire our new islands, but that treaty-making power had the needed authority therefor, not because the United States constitute a "nation," but because it was imparted by the second article of the Constitution.

Of the second proposition, it is clear that the Government at Washington is sovereign and independent in its domestic as well as its foreign affairs, with absolute and exclusive authority within its own territory, which embraces the right to make such fundamental law and such statutes as it pleases, but the pending question is whether or not our existing Constitution restrains Congress in the execution of the last clause of the ninth article of the Paris Treaty.

The third proposition recognizes that question. As sovereignty is the power to govern, the people of the ceded islands are, by the treaty, under the sovereignty of the United States. Its ninth

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article stipulates that the civil rights and political status of the natives thereof shall be determined by Congress, but that stipulation has not ousted all control by the Constitution over Congress when making its determination.

The fourth may be agreed to, and as to the fifth, the natives under the treaty have no right to demand anything except that Congress "determine" their civil rights and political status, but the voters of the United States may insist that the new islands shall be treated by Congress as other territories of the United States, including those ceded by France, Spain and Mexico, have been treated.

As to the sixth, the preamble of the Constitution declares it to be established "for ourselves and our posterity." It makes no mention of conditions existing on this continent, excepting that it had been framed "for the United States of America." The last clause of the sixth proposition takes us around in a circle to the old question of the power of a treaty to modify the fundamental law of the existence of our Government.

Up to this point the Secretary of War has contended that our Constitution does not extend over the natives of the new islands, and they cannot appeal to it, but in the seventh proposition he concedes they can appeal to it on the ground of morals. How and why in regard to moral rights if not legal rights? Could the Supreme Court pronounce unconstitutional a determination by Congress of the civil rights and political status of the natives which would violate their moral rights?

The eighth and ninth proposition affirm that the first clause of the eighth section of the First Article of the Constitution is only to be enforced "upon the Continent of North America," and therefore a higher or lower rate of duties on similar imports can be collected in the ports of Puerto Rico and the Philippines than in the port of New York, although the Constitution declares that "all duties, imposts and excises shall be uniform throughout the United States."

The eighth and ninth propositions also raise the inquiry whether or not the Constitution compels absolute free trade between our new islands and our ports on the North American Continent, and at its threshold stands the now well-known Supreme Court case of Loughborough *vs.* Blake, declaring that "our territories are a part of our society in a state of infancy, looking for-

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ward to a complete equality as soon as a state of manhood is obtained." The question involved in that case was the meaning of the phrase "throughout the United States," and these were Marshall's words:

"The eighth section of the first article gives to Congress the 'power to lay and collect taxes, duties, imposts and excises' for the purposes thereinafter mentioned. This grant is general without limitation as to place. It consequently extends to all places over which the Government extends. If this could be doubted, the doubt is removed by the subsequent words, which modify the grant. These words are: 'But all duties, imposts and excises shall be uniform throughout the United States.' It will not be contended that the modification of the power extends to places to which the power itself does not extend. The power then to lay and collect duties, imposts and excises may be exercised, and must be exercised, throughout the United States. Does this term designate the whole or any particular portion of the American empire? Certainly this question can admit of but one answer. It is the name given to our great Republic, which is composed of States and Territories. The District of Columbia or the territory west of the Missouri is not less within the United States than Maryland or Pennsylvania; and it is not less necessary, on the principles of our Constitution, that uniformity in the imposition of imposts, duties and excises should be observed in the one than the other. Since, then, the power to lay and collect taxes, which include direct taxes, is obviously coextensive with the power to lay and collect duties, imposts and excises, and since the latter extends throughout the United States, it follows that the power to impose direct taxes also extends throughout the United States."

That is a clear judicial precedent, and later there was an executive precedent which should now appeal with great force to the War Department. The Whigs in Congress, during and after the Mexican War, annoyed the Polk Administration with numberless inquiries respecting its power to tax imports into California and to lay taxes in New Mexico after peace with Mexico had been proclaimed in July, 1848. Robert J. Walker was then at the head of the Treasury Department, and he informed the collectors of customs that, by the treaty of peace with Mexico, "the Constitution of the United States is extended over" California, and customs duties there applied according to the rates of the tariff law of 1846.

At that time, an illustrious New Yorker was at the head of the War Department who was, like its present chief, an eminent lawyer, and there was also in military command over California General Persifer Smith, reputed as wise a lawyer as he was efficient in the control of a military department. Marcy held that on the conclusion of the treaty of peace with Mexico, the military govern-

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ment which had been established in California "under the laws of war, ceased to derive its authority from this source of power." The end of the war, he added, left a government *de facto* in full operation, "with the presumed consent of the people" until Congress should provide a government, and that such *de facto* government as existed must obey the Federal Constitution. No duties could be levied in California on articles imported from any State or Territory, nor could they be levied in any part of the country on the products of California. Secretary Root may argue that the ninth article of the Spanish treaty was intended, by the President and Senate, to make those precedents inapplicable to Puerto Rico and the Philippines. He must then contend with Marshall and Marcy.

After the ninth and tenth, the propositions seem to conflict with the previous ones, and especially with the third, which had affirmed that Congress in governing the natives of the Philippines will be "controlled by no legal limitations except those which may be found in the treaty of cession." The tenth declares that the natives are entitled to insist on three of the enumerated guarantees contained in the Constitution, because the United States has declared those guarantees to belong to everybody, because observance of them is a part of the nature of our Government, and because there is an implied contract that Congress will observe the three guarantees. When and where have those three been made "a part of the nature of our Government" to the exclusion of others? They are not specially referred to in the treaty. Why those, any more than guarantees against *ex post facto* laws, unwarranted trial and conviction for crime, juryless civil trials, and even uniform taxes and customs duties?

The Secretary of War seems confident that the recent treaty, and not the Constitution, is the test of the authority of Congress over Puerto Rico and the Philippines. He has perfect trust, no doubt, in the wisdom of the present Congress and of the President. Yet, he manifests an uneasiness over what a possible future Congress and President may do, if the islands be left exposed to legislation unrestrained by the Constitution. That he prefers to rely on the spirit and nature of our fundamental law rather than on its letter is perhaps immaterial provided the judicial power can, in a proper case, sit in judgment on whatever Congress may do. The essential thing is Constitutional control.

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During the second quarter of the century just ending the opinion of the Supreme Court regarding the power of Congress over national possessions outside of States, whether Territories or dependencies, was affected by the slavery problem. In the Dred Scott case the "needful rules and regulations" clause of the Constitution was set aside as not applicable to possessions acquired by cession, and power to govern was, in that case, based on the power to acquire, accompanied by a denial of unrestricted right to rule over them as colonies or dependent provinces. After the War of Secession the "needful rules and regulations" clause was revived and the power of Congress to govern Territories was vested therein by the Supreme Court, but always subject to restrictions imposed by the Constitution.

PERRY BELMONT.

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"WOMAN'S VOCATION" AND OTHER POEMS.

BY CARMEN SYLVA (QUEEN OF ROUMANIA).

TRANSLATED BY SIDNEY WHITMAN.

WOMAN'S VOCATION.

With Woman's nimble fingers
Awake life's beauty everywhere;
Things small and unregarded
Beneath thy touch shall change to fair.

With Woman's tender insight
Unspoken sorrow understand:
The watcher's aching forehead
Shall yield unto thy cooling hand.

With Woman's soul of sympathy
Bring healing to the wounded one:
Pass over human frailties,
As spots upon a cloudless sun.

With Woman's tranquil courage
Meet with a smile Fate's buffets rude:
Thy guerdon of achievement,
Win, if need be, with thy heart's blood.

With Woman's noble purity
Be as the snow-white lilies are;
Their glowing heart shall beckon
And be the wanderer's guiding star.

With Woman's strength eternal,
Thy life, for others freely given,
Shall shine afar, translucent,
Clear as the crystal gate of Heaven.

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A COAT OF MAIL.

In Ireland, once, I saw a stately grove
Of great oak-trees, a hundred full years old;
And round their shoulders clung a curving coil,
Thick with a strong arm's thickness three times told!

It was the ivy, that in years gone by
Had grappled to the oak with dragon's strength,
Intent to drain its sap, and clog its growth,
Till it should strangle all its life at length.

But, stronger than the giant force of Fate,
The great oak's will to live began to stir,
Made of its sap a new encircling bark,
And took the parasite a prisoner!

And so, thrice strengthened to all future time,
The tree resists the tempest and the hail;
Its foeman's force is welded to its own
In an enduring harmony of mail!

E'en so, my heart, within the clutch of Care,
Which, mounting once, seemed like to drag thee down,
Thou findest now thy foeman an ally,
Thine armament, thine honor, thy renown!

THE MID-DAY PEAL.

The bells swung out into music,
Mid-day they pealed from the church-tower gray;
And oh! it was so they were ringing
When my life set out on its wandering way!

It was close to the old year's ending,
When an angel kind bent over my head,
And sighed, as she pointed gently
The way that the path of my pilgrimage led.

"Through a waste land, thorny with briers,
'Neath a heaven of storm and of clouds of snow,
Beset by cares and by terrors,
The course of your life must onward go.

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"But follow the sound of the bells, child;
Be fearless still with a joyous might:
Let their music banish your sorrow,
And fill you with courage to face the fight!

"And then, in the day of reckoning,
The Bells of High Heaven shall your welcome ring,
And your weary heart shall be happy
With the peace and the slumber their echoes bring."

TO BACH.

COME, let me plunge beneath thy mighty wave;
Immerse me in the current of thy mind;
Thy thoughts, which spread like branches intertwined,
All let me know! Thy guiding hand I crave!
Thy voice shall cheer my pathway to the grave,
Like springing water in a cavern blind,
Or in white desert some oasis kind.
My care to live thy harmony shall save.
Thy meaning, Master, let me comprehend;
Upon thy giant form mine eyes would gaze;
Toward thy basalt dome my feet would press!
O, let my prayers thy Temple-steps ascend,
Mine ears enjoy thy heavenly Hymn of Praise,
Till all my soul forget its weariness!

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